

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.19164 OF 2015

Smt. Jaibunbi Mhamulal Pathan

Through her power of attorney holder

Raies Dadaso Pathan

: Petitioner.

Versus

Laxman Atmaram Bhopale and ors.

: Respondents.

Mr. Samrat K Shinde i/by Mr. T D Deshmukh for the Petitioner.

CORAM : R. M. SAVANT, J.

DATE : 20th October 2015

P.C.

1 There is a concurrent finding recorded against the Petitioner and in favour of the Respondents herein i.e. the original Plaintiffs as regards their entitlement for grant of temporary injunction. Both the Courts below on the basis of the statement made in the counter claim by the Petitioner – original Defendant wherein he has accepted the position that the Plaintiffs are in possession deemed it appropriate to exercise discretion in favour of the Respondents herein i.e. the original Plaintiffs and allowed the application for temporary injunction. Both the Courts below have also taken into consideration the fact that after the agreement for sale 09/04/1962 the possession was handed over to the Plaintiffs on the same day. The learned counsel for the Petitioner Shri Samrat Shinde fairly states that the statement made by the Petitioner in the counter claim impinges upon the challenge of the

Petitioner to the impugned order. Hence no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. However, in view of the fact that the Petitioner original Defendant is about 85 years of age and the agreement of which the specific performance is sought is of the year 1962, it would be just and proper to expedite the hearing of the suit in question i.e. Regular Civil Suit No.59 of 2011, which is accordingly expedited.

[R.M.SAVANT, J]