

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

**CIVIL APPLICATION NO.451 OF 2014
IN
SECOND APPEAL NO.182 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Sushant Pabhune for the applicant

Mr.Abhijeet B. Kadam for the respondent

CORAM : K.K.TATED, J.
DATED : 21/09/2015

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by plaintiff for stay of the operation and implementation of the impugned judgment and decree dated 8.1.2014 passed by learned District Judge, Satara in Regular Civil Appeal No.103 of 2012 in respect of land bearing Gut No.44/1A admeasuring 93 Are and 27 Are Potkharab at Village Thakurli, Taluka Phaltan, Dist.Satara and also for an order of injunction restraining respondent nos.1 to 4 from disturbing the plaintiffs possession in respect of the suit property Gut No.44/1A during the pendency

of the present Second Appeal.

3 The learned counsel for the applicant submits that if stay is not granted, irreparable loss and injury will be caused to the applicant. He further submits that applicant is in possession of the suit property as Gut No.44/1A and same be continued till the hearing and final disposal of Second Appeal.

4 On the other hand, the learned counsel for the defendant no.1 vehemently opposed the present Civil Application. He submits that as per conditional sale deed dated 24.7.1978, the defendant no.1 is in possession of the said land. Hence, there is no question of granting any relief in the present Civil Application.

5 I have heard both the sides. I have gone through the copy of conditional sale deed dated 24.8.1978 from record and proceeding. Bare reading of conditional sale shows that the original owner of the suit property i.e. Gut No.44/1A had handed over possession to the defendant no.1 on certain terms and conditions. This show that since then, the defendant no.1 is in possession of the suit property. This itself shows that applicant plaintiff was not and is not in possession of the suit property.

6 Considering these facts, following order is passed:

(A) Prayer clause (a) and (b) of Civil Application is rejected.

(B) Respondent defendant no.1 is restrained by an order of injunction from creating any third party right title and interest in respect of land Gut No.44/1A admeasuring 93 Are and 27 Are Potkharab at Village Thakurli, Taluka Phaltan Dist.Satara till the hearing and final disposal of the Second Appeal.

(C) Civil application stands disposed off accordingly.

(K.K.TATED, J.)

CERTIFICATE

Certified to be true and correct copy of the original
signed order.