

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

WRIT PETITION NO.2449 OF 2015

Kantilal Zumbarlal Mutha

.. Petitioner

Versus

Smt. Taramati Ambadas Saraf @ Bacchuwar

.. Respondent

Shri. S. S. Kanetkar, for the Petitioner.

Shri. Jaydeep Deo, for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 12th MARCH, 2015

PC.

1. There is a concurrent finding recorded against the Petitioner in so far as the grant of the discretionary relief of temporary injunction is concerned. Both the Courts below on the basis of the material on record and especially the adjudication which has taken place in the earlier round in Arbitration Case No.157 of 1983, Appeal No.93 of 1991 before the Co-operate Appellate Court and the adjudication of two Writ Petitions being Writ Petition No.2049 of 1993 and Writ Petition No.4564 of 2004 and thereafter the dismissal of the SLP by the Apex Court have held that the injunction sought by the Petitioner/Plaintiff seeking protecting of possession of the Plaintiff on the ground that the Plaintiff may not be dispossessed either by executing the Award passed in Arbitration Case

No.157 of 1983 or by any other means cannot be granted. It is required to be noted that in the earlier round the Co-operative Court has held the Respondent herein i.e. Disputant entitled to the decree of possession and has accordingly passed an Award and the case of the Petitioner that he is possession which has to be protected having regard to Section 53-A of the Transfer of Property Act has been negated by the Courts below and has also been confirmed by the Learned Single Judge of this Court in the judgment rendered on 7th November, 2011 in the said two Writ Petitions being Writ Petition No.2049 of 1993 and Writ Petition No.4564 of 2004 which in term has been confirmed by the Apex Court. The Courts below have refused to grant injunction to the Plaintiff having regard to Section 41(a) of the Specific Relief Act as also in view of the decree which the Respondent has in his favour of possession granted in the earlier round. In the light of the concurrent orders passed by the Courts below, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]