

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.2554 OF 2009
IN
FIRST APPEAL NO.892 OF 2009

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. P. M. Khankar for the Applicant
None for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 25, 2015

P.C.:

1. Heard the learned counsel for the Applicant. None for the Respondent. Office note shows that Civil Application stood dismissed against Respondent Nos.2 and 3.

2. The learned counsel for the Applicant submits that he is not pressing prayer clauses (a), (b) and (d) of the Civil Application. He submits that in the present Application, he is pressing only prayer clause (c) i.e. order of injunction restraining the Respondents from selling and/or alienating and or inducting any other person or persons in the suit premises i.e. Room No.3, Hande Chawl, Hutatma Babu Genu Nagar, D.P. Wadi, Ghodapdeo K. L. Borkar Marg, Bombay – 400 033.

3. In the present proceedings, the Applicant - Plaintiff filed Short Cause Suit No.3680/2007 for declaration that Defendant No.1 has no right, title and interest in respect of the suit property and Defendant Nos.2 and 3 are trespassers in respect of the suit property and for other reliefs. On the basis of the pleadings, the Trial Court framed following issues:

	ISSUES	FINDINGS
1	Does the Plaintiff prove that his mother had given the room No.3 situated at Hande Chawl, Hutatma Babu Genu Nagar, D.B. Wadi, Ghodapdeo, K.L. Borkar Marg, Bombay – 400033 on leave and license basis to the Defendant No.1 on a monthly compensation of Rs.300/-	In the negative.
2	Does the Plaintiff further prove that, because of the death of his mother he has entered in the shoes of his mother and has become entitled to the suit property ?	In the negative
3	Does the Plaintiff further prove that, the Defendant Nos.2 and 3 are the trespassers in the suit premises ?	In the negative
4	Does the Plaintiff further prove that, he is entitled for the declaration as prayed for against the Defendant No.1?	In the negative

5	Does he further prove that, he is entitled for possession of the suit premises from Defendant Nos.2 and 3?	In the negative
6	Does he further prove that, the Defendant Nos.2 and 3 are liable to pay compensation of Rs.14000/- each to the Plaintiff ?	In the negative
7	Does the Plaintiff further prove that, he is entitled for compensation at the rate of Rs.1000/- from Defendant Nos.2 and 3 each till recovery of actual physical possession of the suit premises ?	In the negative
8	Whether this court has jurisdiction to try and entertain this suit ?	In the negative
9	What order ?	As per final order

4. After considering the evidence on record, the Trial Court dismissed the Applicant's suit. Hence, the Applicant preferred the present appeal along with Civil Application.

5. It is to be noted that the Trial Court categorically held that the Applicant is not owner of the suit premises. Moreover, the Applicant failed to produce and/or show his ownership in respect of the suit premises even at the time of arguing this Civil Application. Considering these facts, as the

Applicant failed to show his ownership in respect of the suit premises, he cannot claim any order of injunction against the Respondent from creating any third party right, title and interest in respect of the suit property. Apart from that, during pendency of the suit before the Trial Court, there was no injunction against the Defendant from creating any third party right, title and interest in respect of the suit property.

6. Considering these facts, I do not find any substance in the present Civil Application. Same stands rejected.

JUDGE