

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

**CIVIL APPLICATION NO. 983 OF 2013
IN
SECOND APPEAL NO. 384 OF 2013**

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. Amit Borkar for the applicant.
None for the respondents.

**CORAM : K. K. TATED, J.
DATED : 19/10/2015.**

P.C.:

. Heard learned Counsel for the applicant.

2 None for the respondents, though duly served.

3 The matter was on board on 12.10.2015. On that date, no one appeared on behalf of respondent. Hence, matter was adjourned by one week as a last chance. Today also no one appeared on behalf of respondent.

4 This application is preferred by plaintiff for an order of injunction restraining the respondent defendant from disturbing his possession over the suit property bearing Gat No. 69/A/2 at Mouje

Hotgi, Taluka: South Solapur, District: Solapure as described in paragraph 1 of the plaint.

5 The learned Counsel for the applicant submits that the Trial Court by the Judgment and Decree dated 30.10.2007 categorically held in paragraph 22 that “Though the plaintiff found in possession of the property, she is not entitled to have a protection of order of injunction in equity form.” He submits that this itself shows applicant's possession. He submits that though the matter was adjourned time to time, the respondent failed and neglected to file Affidavit in reply to show that when they obtained the possession of the suit property.

6 The learned Counsel for the applicant submits that as on today the applicant is in possession of the suit property. He submits that in the interest of justice, this Hon'ble Court be pleased to allow the present Civil Application restraining Respondent from disturbing applicant's possession during the pendency of Second Appeal. He submits that if injunction is not granted against the respondents defendants, they may disturb her possession without following due process of law.

7 Considering the submissions made by the

learned Counsel for the applicant, observation made by the Trial Court in paragraph 22 and as the respondents defendants failed to file their Affidavit in reply though the matter was adjourned on several occasion, I am satisfied that applicant has made out case for allowing this Civil Application.

8 Hence, Civil Application is allowed in terms of prayer clause (a), which reads thus”

“a) This Hon'ble Court be pleased to restrain the Defendants from disturbing the possession of the Applicant over suit property bearing Gat No. 69/A/2 at Mouje Hotgi, Tal. South Solapur, Dist. Solapur as described in paragraph no.1 of the plaint.”

9 It is made clear that the respondents defendants may take appropriate steps according to law for taking possession, if they so desire and that to be decided on its own merits.

10 Civil Application is disposed of accordingly.

(K.K.TATED, J.)