

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

APPEAL FROM ORDER NO. 987 OF 2014
WITH
CIVIL APPLICATION NO. 1195 OF 2014

Chandrakant Girdharilal Gandhi .. Plaintiff/Appellant
Vs.
Mrs. Kajal Mitul Gandhi & Anr. .. Defendants/Respondents

Mr. S. A. Abhyankar for the Plaintiff/Appellant.
Mr. Siddharth C. Wakankar for Respondent No. 2.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 29th OCTOBER, 2015.

P.C.

1. Rule. Made returnable forthwith.
2. The appellant/plaintiff has challenged the order of Bombay City Civil Court dated 13.09.2014 dismissing his Notice of Motion with costs. The Suit and the Notice of Motion related to the injunction against the entry of the daughter-in-law of the plaintiff. The son is a party-defendant. No such relief is claimed. Son has himself walked out of the house. That statement is made by the counsel on behalf of the son appearing before this Court.
3. The Learned Judge has observed that the daughter-in-law is entitled to reside in her matrimonial home and that the suit premises is her matrimonial home. The exceptional case of refusal of possession in a matrimonial home can be decided only in the trial.
4. The trial would have to see the collusion, if any, between the father and the son. It is only upon the cross-examination of the father and the son that the truth would be brought to light. Hence the order the Notice of Motion is correct.

5. The Appeal from Order is dismissed.
6. The Civil Application is disposed of accordingly.

(ROSHAN DALVI J.)