

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

**APPEAL FROM ORDER NO.141 OF 2015
WITH
CIVIL APPLICATION NO.183 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.Omprakash Tiwari for the appellant
None for the respondent

CORAM : K.K.TATED, J.
DATED : 16/02/2015

PC:

- 1 Heard the learned counsel for the appellant.
- 2 This appeal is preferred by plaintiff challenging the order dated 28.7.2014 passed by Bombay City Civil Court, Mumbai rejecting plaintiffs Notice of Motion No.2160 of 2013.
- 3 The plaintiff filed Special Civil Suit No. 2516 of 2013 for an order of injunction restraining defendants from disturbing his possession in respect of the suit premises i.e. room situated at Hanuman Tekdi, Gate No.2, Near Ambe Mata Mandir, Jal Dhara Community, Santacruz (East), Mumbai 400 055. Plaintiff preferred Notice of Motion No.2160 of 2013 for an order of injunction restraining defendant from disturbing

his possession.

4 The learned counsel for the plaintiff submits that the trial court erred in coming to the conclusion that the respondents defendants are not occupying the suit premises. He submits that the plaintiff is owner of the suit premises and therefore, the respondents defendants may be restrained by an order of injunction from disturbing his possession. Hence, the order passed by the trial court is required to be set aside by allowing Notice of Motion No.2160 of 2013 preferred by him.

5 It is to be noted that in the present proceeding, the appellant plaintiff in paragraph 1 of the plaint specifically stated that the defendant nos.1 to 3 are the real brothers of the plaintiff and temporary residing at the address mentioned in the plaint i.e. suit premises. Not only that even the trial court in paragraph 6 of the impugned order recorded that the defendants placed on record electricity bill in their name showing the address of the suit premises, ration card and other documents. On the basis of these documents, the trial court held that the defendant is also occupying the suit premises.

6 Considering the documents on record and reasons recorded by the trial court in paragraph

6 of the impugned order, I am of the opinion that plaintiff has not made out any case to entertain the present Appeal from Order.

7 Hence, same is rejected.

8 Considering the facts and circumstances of the present case, hearing of suit is expedited.

9 In view thereof, Civil Application does not survive. The same is also dismissed as infructuous.

(K.K.TATED, J.)