

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (CAF) NO. 630 OF 2015
IN
FIRST APPEAL NO. 733 OF 2014

Kuwarprakashchandra Ramchandra Srivastava & Ano. Vs. Anilkumar Totaldas Chelani & Ors.

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri D. K. Dubey Adv for applicant.
Shri S. P. Kshirsagar Adv for respondents 1 & 2.

CORAM: A. S. CHANDURKAR J.

DATED: 13 APRIL, 2015.

Prayer is to direct the respondents to deposit occupation charges of the suit premises. It is stated that the respondents were occupying the suit premises as tenants paying rent of Rs. 15000/- per month. The suit for specific performance was filed on the basis of oral agreement and hence possession of respondents cannot be protected under provisions of Section 53A of the Transfer of Property Act.

The application is opposed by the respondents on the ground that there is no finding regarding relationship of the parties as that of landlord and tenant.

In the written statement filed by the present appellants there is no specific stand taken regarding such relationship or the entitlement

to protection of possession in the capacity as tenants. Hence, no issue in that regard was also framed by the trial Court. In absence of such plea being raised before the trial Court, the directions as sought cannot be granted. Relief if any can be granted to the parties when the appeal is finally decided. Civil application is therefore dismissed. No costs.

JUDGE

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