

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

**WRIT PETITION NO. 2217 OF 2015**

|                                    |                |
|------------------------------------|----------------|
| Sadanand Subbanna Prabhu           | ... Petitioner |
| V/s.                               |                |
| Chandrakant Subbanna Prabhu & Ors. | ... Defendants |

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Mr. R.P. Lote for the Petitioner.  
None for the Respondent.

**CORAM : K. K. TATED, J.  
DATED : 11/08/2016**

**P.C.:**

. Heard learned Counsel for the petitioner.

2 By this petition under Article 227 of Constitution of India, the Petitioner Plaintiff is challenging the order dated 06.08.2013 passed by 4<sup>th</sup> Civil Judge, Junior Division, Kalyan by which the plaintiff's application below Exh.5 and Exh.38 in Regular Civil Suit No. 825 of 2012 stands dismissed and order dated 04.10.2014 passed by learned Ad-Hoc District Judge, Kalyan in Misc. Civil Application No. 95 of 2013 upholding the order passed by the Trial Court.

3 In the present proceeding, the petitioner plaintiff filed Regular Civil Suit No. 825 of 2012 for declaration that plaintiff is tenant and having right, title and interest as the tenant in respect of Shop No. 3, Ground Floor in the Purnayan Bldg, below Dena Bank, Pandit Deendayal Marg, Vishnunagar, Dombivali (W), Dist. Thane and for other reliefs. The Plaintiff preferred application below Exh.5 under

Order 39 Rules 1 & 2 of Code of Civil Procedure, 1908 for an order of injunction against Respondents defendants with following prayers.

- “a. The Hon'ble Court may be pleased to pass the order, restraining/stopping the defendant No. 1 and 2 from entering in to the said shop premises of the plaintiff and may be pleased to direct the Defendant No. 1 and 2 not to trespass within the said premises of the plaintiff.*
- b. The Hon'ble court may be pleased to pass the order that the defendant No. 1 and 2 do not have any legal right, title or interest as a tenant in the said shop premises of the plaintiff.*
- c. The Hon'ble Court may be pleased to pass the order that there is no any partnership business remains within the said shop premises under the law between the plaintiff and the defendant No. 1 or 2.*
- d. The Hon'ble court may be pleased to pass the order of stay against the suspension notice, issued by the Food and Drug administration department dt. 15/5/2012 against the plaintiff and declared the said notice to be illegal.*
- e. The Hon'ble court may be pleased to grant the relief as prayed above in sub-para No. 'a' to 'd' of para No. 23.*
- f. And any other relief as this Hon'ble Court deems fit and proper in the interest of justice in favour of the plaintiff.”*

4 The Trial Court by order dated 06.08.2013 rejected plaintiff's application below Exh.5. The Appellate Court also by order dated 04.10.2014 rejected plaintiff's Misc. Civil Application No. 95 of 2013.

5 It is to be noted that there is no dispute that Respondents defendants were partners of partnership firm.

6 Considering these facts, both the Courts below declined to grant any ad-interim relief in favour of plaintiff.

7      Considering the concurrent findings of facts recorded by both the Courts below and as plaintiff is seeking injunction against one of the partner of partnership firm, I do find any reason to interfere with the concurrent findings of facts recorded by both the Courts below in the present petition.

8      Hence, following order is passed:

a)      Writ Petition stands rejected.

b)      Considering the facts of the present case, hearing of Regular Civil Suit No. 825 of 2012 is expedited.

**(K.K.TATED, J.)**