

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

CIVIL APPLICATION NO.160/2016
IN
CIVIL REVISION APPLICATION NO.415/2011

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. G. S. Hiranandani i/b. C. G. Gavnekar for the applicant
Mr. Amol Mhatre for the respondent

CORAM : K. K. TATED, J.
DATE : APRIL 6, 2016

P.C.:

1. Heard. This Application is made by the plaintiff for fixing early date of hearing of Civil Revision Application No.415/2011 as well as direction to the applicant defendant to remove a third person who is occupying the suit premises i.e. room No.1, ground floor on shed No.13, in property at 217, Maulana Azad Road, Mumbai – 400 008.

2. The learned counsel for the applicant submits that in view of order dated 13.09.2013 passed by this court in Civil Application No.405/2013 the applicant is not pressing prayer

clause (a) of the present Civil Application i.e. fixing early date of hearing.

3. The learned counsel for the applicant submits that the defendant created third party right, title and interest in respect of the suit premises. He submits that when the plaintiff visited the suit premises, he found a third person in possession. To that effect, he has placed on record photographs in rejoinder dated 15.12.2015 Exhibit-“X” collectively. He submits that the defendant may be directed to remove the third party from the suit premises.

4. On the other hand, the learned counsel for the defendant vehemently opposed the Civil Application. He submits that as on today, the defendant himself is in possession of the suit premises. To that effect, he has made a statement in his Affidavit-in-Reply dated 23.02.2015. paragraph 4 of the said affidavit reads thus:

“(4) I state and submit that it is a fact that the said premises are occupied by the answering respondent and by nobody else whosoever. I state and submit that there is no third party who is inducted in the said premises as alleged by the present applicant. The said allegations are totally false and incorrect and made with an intention to harass the present answering respondent.”

5. The learned counsel for the defendant also placed on record, photographs at page 24 of the said Affidavit-in-Reply showing that the defendant himself is in possession and occupation of the suit premises. He submits that, there is no substance in the Civil Application. Same be dismissed with costs.

6. Heard the learned counsel for the parties. As the defendant made a statement on affidavit in his Affidavit-in-Reply dated 23.02.2015 along with photographs, I do not find any reason to allow the present Civil Application. Hence, the Civil Application stands rejected.

JUDGE