

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

CIVIL APPLICATION NO.1977 OF 2016

IN

FIRST APPEAL NO.840 OF 2016

Babu Singh Sitaram Tomar

.. Applicant/Appellant

Versus

Ashok Dongra s/o Madanlal Dongra

and another

.. Respondents

Mr. Omprakash Pandey for the Applicant/Appellant.

Mr. R. R. Shinde for the Respondent No.1.

Mrs. Madhuri More for the Respondent No.2 BMC.

CORAM : R.M. SAVANT, J.

DATE : 22nd JULY 2016

PC.

1 The above Civil Application has been filed for interim reliefs pending the Appeal. By prayer clause (a) the Appellant/original Plaintiff seeks stay of the effect, operation and implementation of the impugned judgment and decree dated 20.01.2016 passed in BCCC LC Suit No.2189 of 2008. By prayer clause (a) the Plaintiff seeks an injunction from restraining the Respondent No.1/original Defendant No.1 from parting with possession of the suit premises. It is required to be noted that the suit filed by the Plaintiff has been dismissed by the Trial Court by the

impugned judgment and order dated 20.01.2016. The suit was filed for restraining the Defendant from dispossessing the Plaintiff. However, it was the case of the Plaintiff that he was dispossessed pending the suit for which he had filed an application for amendment which came to be allowed and suit came to be amended seeking possession of the suit property. It is pertinent to note that in deposition of the Plaintiff he has stated that “today there is no suit structure”. The Trial Court has also recorded a finding that the existence of the suit structure is in doubt since the Plaintiff has not produced any photographs of the suit structure though directed to do so. In the light of the findings recorded by the Trial Court and in view of the Plaintiffs own statement, there is no warrant to grant any of the reliefs sought in the Civil Application. The Civil Application is accordingly rejected.

[R.M. SAVANT, J]