

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

WRIT PETITION NO.4810 OF 2014

Shri Ganpatrao S. Jadhav .. Petitioner

vs.

Shri Babu Apanna Chougule & Anr. .. Respondents

Mr.A.M.Kulkarni for the petitioner

Mr.PD.Pise for the respondent nos.1 and 2

CORAM : K. K. TATED, J.
DATE : JUNE 20, 2016

P.C.:

1 Heard the learned counsel for the parties.

2 By this petition, under Article 227 of the Constitution of India, petitioner org.plaintiff challenges the order dated 24.4.2014 passed by Ad-hoc District Judge-1, Sangli below Exhibit-46 in Regular Civil Appeal No.152 of 2012 rejecting plaintiff's application for stay restraining respondents defendants from disturbing his possession.

3 In the present proceeding, the petitioner plaintiff filed Civil Suit 50 of 2001 for perpetual injunction restraining respondents defendants

disturbing their possession in respect of the Suit Property i.e. City Survey No.1304. In that Suit, the defendant preferred counter claim for possession. Plaintiff's suit stand dismissed and respondent defendant's counter claim was allowed by Trial Court. Against that order, plaintiff preferred Regular Civil Appeal No.152 of 2012. Plaintiff preferred application below Exhibit-12 in Reg.Civil Appeal No.152 of 2012 for stay of the operation and implementation of the judgment and decree passed by Trial Court in cross objection. That application was rejected by appellate court by order dated 14.3.2014 on the ground that execution application was not filed by the defendant for possession. Thereafter, the defendant filed application under Order XXI Rule 35 of the Code of Civil Procedure, 1908 in Regular Darkhast No.63 of 2013. Hence, plaintiff preferred application below Exhibit-46 for stay of the execution of the Judgment and Decree. That was dismissed by the appellate court by order dated 24.4.2014 on the ground that in case if the plaintiff succeeds in Appeal he can make appropriate application under Section 144 of the Civil Procedure Code, 1908 by way of restitution of possession. Hence, the present Writ Petition.

4 In this Writ Petition, this court granted ad-interim relief on 9.6.2014. Considering the fact that ad-interim protection is running in favour of the plaintiff for last more than 6 years, I am of the opinion that in the interest of Justice matter can be disposed of in following terms and without giving any reasons:

- a) Pending the hearing and final disposal of Regular Civil Appeal No.152 of 2012, parties are directed to maintain

status quo as of today.

b) Appellate court to decide Regular Civil Appeal No.152 of 2012 as early as possible but in any case on or before 31.12.2016.

c) Writ Petition stands disposed of accordingly.

JUDGE