

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

***CIVIL APPLICATION NO. 970 OF 2016
IN
SECOND APPEAL (ST) NO. 16670 OF 2016***

Shri Pankaj Jagubhai Shah

... Applicant

v/s

The State Bank of Saurashtra
(changed name, State Bank of India)

... Respondent

Mr.Vishwajeet Sawant along with Vinay Bhate for the applicant.
Ms.Ushakiran Srivastava along with Ms.Nupur Awasthi i/by Consult
Juris for the respondent.

***Coram: N.M. Jamdar, J.
Dated: 13 July, 2016***

P.C.:

Heard learned counsel for the Appellant.

2 The suit filed by the Appellant is to restrain the Respondent Bank from dispossessing the Appellant without following due process of law. By an order passed today, the appeal has been admitted.

3 The civil suit has been filed on 3 May 2008. There have been proceedings earlier in this Court at the behest of Respondent Bank when an interim injunction was granted in favour of the Appellant.

4 After the matter was heard at considerable length, learned counsel for the Respondent Bank made a statement that the Bank has sold the property in auction on 10 April 2008 on 'as is where is' basis and the Bank has realized its dues and adjusted the amount and the Bank has no concern left to the property. That being the position, there is no question of the Respondent Bank dispossessing the Appellant.

5 If the Appellant is to be proceeded with by any private individual, they will have to adopt a procedure established by law. In the circumstances, in view of the fact that even though the Respondent Bank has no concern left with the property, it still pursued the litigation actively, the Appellant will have to be protected qua the Respondent Bank till the disposal of the second appeal. Order accordingly.

6 The civil application is accordingly disposed of.

(N. M. Jamdar, J.)