

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

WRIT PETITION NO.7902 OF 2015

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.Prashant P. Kulkarni for the petitioner

CORAM : K. K. TATED, J.

DATE : JULY 4, 2016

P.C.:

1 Heard the learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India the Petitioner org.defendant challenges the concurrent finding of fact recorded by both the courts below on respondent plaintiff's application below Exhibit-5 under Order XXXIX Rule 1 and 2 restraining petitioner defendant from disturbing respondent plaintiff's possession in respect of the suit property i.e. Gut No.4426/1 1 H 29R at Mangalwedha. The Trial Court at the time of deciding Exhibit-5 application in paragraph 6 recorded that the petitioner defendant filed application before the Tahsildar to show his name as a cultivator in 7/12 extract. That application

was rejected. Thereafter, petitioner defendant preferred Appeal. That Appeal was also dismissed by the appellate authority. This itself shows that the defendant failed to prove prima facie case to show his possession in respect of the suit premises. These facts were recorded by both the courts below in impugned orders.

3 Considering the fact that Tahsildar as well as Appellate Authority rejected defendant's application to show his name in Column of Cultivator of 7/12 extract. I do not find any reason to entertain the present Writ Petition.

4 Hence, Writ Petition stands rejected.

5 Liberty granted to the petitioner defendant to make appropriate application before the appellate court for early hearing of appeal.

6 Appeal be decided on its own merits without influencing the order passed by this court.

JUDGE