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

***SECOND APPEAL (ST.) NO. 22345 OF 2015
with
CIVIL APPLICATION NO. 1751 OF 2015***

Mr. Ravindra Vithoba Jathar. ...Appellant/Applicant.

V/s.

Mrs. Devayani Dattatray Joshi & Ors. ... Respondents.

Mr. Sachindra Bhaskar Shetye for the Appellant/Applicant.
Mr. Rafique Shaikh for the Respondents.

CORAM : N.M. Jamdar, J.

08 August, 2016.

P.C. :-

The Appellant challenges the Judgment and Order passed by the learned District Judge, Ratnagiri dated 22 June 2015, allowing the Appeal filed by the Respondents – Plaintiffs and decreeing the Suit. By the impugned Judgment and Order, the learned District Judge has directed the Appellant to hand over possession of the suit property within three months of the order.

2. Heard the learned Counsel for the parties.

3. The learned Counsel for the Appellant submitted that the notice issued under Section 106 of the Transfer of Properties Act, 1882 was not legal and proper and the tenancy was not rightly terminated. He submitted that the learned Civil Judge had correctly passed the order holding that the notice was vague. These submissions cannot be considered. The lease was for period of ten years and thereafter, for five years. The period had come to an end on 31 December 2002. Thereafter, the notice was issued to hand over the possession on 2 March 2005. The learned District Judge has rightly held that there was no question of termination of tenancy and the lease had already expired by efflux of time and no renewal was granted.

4. No question of law arises. Second Appeal is dismissed. Civil Application is disposed of accordingly.

5. The learned Counsel for the Appellant requested for some time to vacate. It has to be considered that the lease has expired in the year 2002 and through the delay in the litigation, the Appellant has already got 14 years time, after his right to remain in the land came to an end. Therefore, while granting such request, the prejudice that has been caused to the Respondents will have to be kept in mind. However, since the Appellant will require some

time to make arrangement to vacate the premises, the decree shall not be executed for period of six weeks from today. This is on the condition that the Appellant will file an affidavit within two weeks that he will not create third party rights and give the details of the adult members in his family and pay the arrears of rent.

(N.M. Jamdar, J.)