

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12354 OF 2015

Shri. Salimbhai Y. Kalyanwala .. Petitioner
vs.
The Divisional Joint Registrar
and ors. .. Respondents

Mr. Ismail Nasikwala i/b Mr. A.M. Sarogi for the Petitioner.
Ms M.S. Bane, B-Panel counsel for Respondent No.1.
Mr. B.V. Samant for Respondent Nos.2 and 3.

CORAM : M. S. SONAK, J.
DATE : 18 JANUARY 2016.

P.C. :-

1] The learned counsel for the Respondent Nos.2 and 3 has pointed out that the Petitioner, after institution of the present petition, has instituted Special Civil Suit No. 247 of 2015 before the Civil Judge at Kalyan seeking substantially same reliefs, as are applied for in this petition. Learned counsel for the Respondent-Bank has in fact produced for the perusal of this Court, a copy of the complaint as well as applications seeking interim relief. In the suit, the Petitioner has applied for a declaration that he is the owner in possession of the suit property and that the suit property is an un-mortgage property. In the suit, the Petitioner has applied for relief of injunction restraining the Respondent-Bank from taking any proceedings in respect of the suit property.

2] The learned counsel for the Petitioner has submitted that since the suit was instituted after the institution of present petition, there was no question of any reference to the said suit in the petition. He has submitted that the Petitioner is in a desperate possession and therefore, the Civil Suit has been instituted to protect the possession.

3] Now that the Petitioner has instituted the civil suit, it will not be appropriate to entertain the present petition. This petition is dismissed, without making any observations on the contentions of both parties. Therefore, all contentions of all parties are kept open.

4] With aforesaid observations, this petition is dismissed.

(M. S. SONAK, J.)

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