

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

**CIVIL REVISION APPLICATION NO.648 OF 2016
IN
NOTICE OF MOTION NO.2094 OF 2014
IN
S.C. SUIT NO.1901 OF 2014**

Mr Rajdev Gangaram Jaiswal ... Applicant
v/s
Mr Ramesh D. Revade and another ... Respondents

Mr Ashok M. Saraogi for Applicant.
Mr Anand H. Singh for Respondent.
Mr V.S. Panandikar, Assistant Court Receiver present.

CORAM : RAJESH G. KETKAR, J.

DATE : 23rd NOVEMBER, 2016.

P.C. :-

1. Heard Mr Saraogi for the Applicant, Mr Singh for the Respondent and Mr Panandikar, Assistant Court Receiver who is present in Court.

2. By this Application filed under section 115 of Civil Procedure Code 1908 (for short, C.P.C.), the Applicant, hereinafter referred to as the original Plaintiff, has challenged the judgment and

order dated 23rd September 2016 passed by the learned Judge, City Civil Court, Dindoshi, Mumbai in Notice of Motion No.2094 of 2014 in S.C. Suit No.1901 of 2014. By that order, the learned Trial Judge dismissed the Notice of Motion taken out by the Applicant – Plaintiff under Order XXXIX Rules 1 and 2 of C.P.C. for injunction restraining the Respondents, hereinafter referred as Defendants, agents, servants, family members, representatives or any person claiming by or under them in any manner selling, transferring, assigning and/or creating any charge, lien, hypothecation of the suit premises or any part thereof in respect of Room No.510, Shree Samrat SRA CHS Ltd., Opposite Vidyanagari, Kalina, Santacruz (East), Mumbai 400 098 (for short, suit premises) without following due process of law.

3. The Plaintiff has instituted S.C. Suit No.1901 of 2014 against Defendants for declaration that Defendants have no right to disturb the peaceful use, occupation and possession of the Plaintiff in respect of the suit premises save and except by following due process of law and for perpetual injunction. In view of Order 43 Rule 1(r) of C.P.C., the Applicant has an equally, efficacious, alternate statutory remedy of filing Appeal from Order in this Court challenging the

impugned order. Hence, C.R.A. is dismissed on the ground of maintainability, reserving liberty to the Applicant to file Appeal from Order. It is made clear that I have not examined merits of the case. Order accordingly.

(RAJESH G. KETKAR, J.)