

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7457 OF 2014

Shri. Bapurao A. Badade .. Petitioner
vs.
Shri. Krishna R. Parab .. Respondent

Mr. S.V. Bane for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 07 AUGUST 2017.

P.C. :-

1] The challenge in this petition is to the orders dated 27th June 2012 and 14th March 2014, by which, learned Trial Judge and the Appeal Judge have declined the petitioner-plaintiff relief of temporary injunction to restrain the respondent from creating any third party rights in the suit premises or parting with the possession of the suit premises.

2] Both the Courts have reasoned that there is no merit in the apprehension expressed by the petitioner that the respondent-defendant will, during pendency of suit, create third party rights or parting with possession of the suit premises.

3] Learned counsel for the petitioner has drawn my attention to the averments made in paragraph '11' of the written statement filed

by the respondent-defendant, which reads as under:

“11. With reference to para 15, the Defendant is not interested in inducting any third person in the suit premises as his sub-tenant, or licensee, because the suit premises is required by him for his residence and as such the question of creating third party interest in the suit premises by the Defendant does not/ did not arise.”

4] Learned counsel for the petitioner submits that since the respondent has already made aforesaid statement in the written statement, the injunction as prayed for by the petitioner must follow particularly since the same will occasion no prejudice to the respondent.

5] The two Courts, in my opinion, have rightly held that the orders of injunction are not to be made merely because the same may occasion no prejudice to the defendant. From the statement made in paragraph 11 of the written statement, it is apparent that the respondent is bound down to his own statement that he shall not create any third party rights in the suit premises or part with the possession of the suit premises.

6] In view of the aforesaid, there is no case made out to interfere with the impugned orders. However, in future, should any occasion arise in support of the apprehension which the petitioner presently

expressed, the petitioner will always be at liberty to apply for suitable interim reliefs.

7] With liberty as aforesaid, this petition is dismissed. There shall however, be no order as to costs.

(M. S. SONAK, J.)