

sas

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY***

***CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO.13745 OF 2016***

Dattaram Ramchandra Lad ..Petitioner.

V/s.

Naresh Atmaram Lad & Ors. ..Respondents.

Mr.Tushar Dahibawkar i/b. Dahibawkar & Co. for the Petitioner.

Mr.Jaydeep Deo for Respondent Nos.1 to 3.

Amit Kanani for Respondent No.5.

***CORAM : N.M.Jamdar, J.***

***DATED : 12 January, 2017***

**P.C. :-**

The Petitioner has challenged the orders passed by the Appellate Bench of the Small Cause Court dated 8 August, 2016 restraining the Petitioners from creating third party rights, parting with the possession or any manner dealing with the suit property. The suit is filed by the Respondents for declaration that the Petitioner are trespassers. After the suit was dismissed, appeal has been filed in which the impugned order is passed.

2. The learned counsel for the Petitioner submitted that there was no such restraint on the Petitioners during the suit and

such injunction was not necessary. The Petitioner claim to be tenant of the suit premises. If that be so, the Petitioner cannot then seek approval of the Court to part with the possession or create any third party rights. The learned counsel for the Petitioner also submitted that the Petitioner do not have any intention to do so. That being the position, the impugned order is not prejudicial to the Petitioner. Therefore, it is not necessary to interfere with the impugned order. The writ petition is accordingly dismissed. It is clarified that the observation made in the impugned order are prima facie and the appeal will be decided on its own merits.

*(N.M.Jamdar, J.)*