

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1905 OF 2017**

Shri Gajanan Shankar Halbe

..Petitioner

Vs.

Shri Padmanabh Vishwanath Gangal & Anr

..Respondents

Mr. Dushyant Pagare i/b Ms Aditi Athawale for the Petitioner

Mr. Saurabh Oka for the Respondent Nos.1 & 2

CORAM : R. M. SAVANT, J.

DATE : 6th APRIL, 2017

P.C.

1 There is a concurrent finding recorded by the courts below as regards the non user of the suit premises in the proceeding six months prior to the filing of the Suit resulting in the Suit being decreed on the said ground. The said finding has been recorded on the basis of the evidence which has been come on record amongst which is the evidence of the neighbours in respect of the suit premises as also the official of the MSEDCL who has deposed as regards the consumption of the electricity, which was only to the extent of only 2 or 3 units per month. The case of the Petitioner i.e. the original Defendant-tenant that on account of the medical exigency of his wife that he had to leave the suit premises and reside in Pune, has not been accepted by the courts below having regard to the material which has come on record.

2 In the light of the concurrent orders passed by the courts below, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

3 However, the Petitioner is granted time up to 31-5-2017 to hand over the possession of the suit premises on the usual undertaking to be filed in this Court within two weeks from date.

4 The parties to act upon an ordinary copy of this order duly authenticated by the Court Shirestedar.

[R.M.SAVANT, J]