

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 15495 of 2017
WITH
CAAST/15496/2017 IN AOST/15495/2017

Laxman Bharmu Madhale

..Appellant

v/s.

Smt. Rehana Sabbir Baghvan & Ors.

..Respondents

Mr. Bholaprasad Shukla for the Appellant

Adv. Milan Desai i/b. T.R.Patel for the Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 17th APRIL, 2018.

P.C.

1. The appellant herein who was the plaintiff in the S.C. Suit No.2648 of 2015 had filed Notice of Motion No.168 of 2017 seeking to restrain the respondents herein from dispossessing him or interfering with his possession in respect of the suit premises. The said notice of motion was dismissed by the trial Court by order dated 28th April, 2017. Aggrieved by the said order, the appellant herein has preferred this appeal from order.

2. The learned Counsel for the respondent submits that

subsequent to the dismissal of the notice of motion, the appellant-plaintiff has taken forcible possession of the suit premises and that he has already filed a suit under Section 6 of the Specific Relief Act.

3. From the statement made by the learned Counsel for the respondent, it is evident that as on date, the appellant herein is in possession of the property. The respondent has already filed a suit under Section 6 of the Specific Relief Act. Hence, this would redress the apprehension of the appellant-plaintiff that he would be dispossessed without taking recourse to law stands alleviated. The question whether the appellant herein has taken forcible possession after dismissal of the notice of motion or whether he was already in possession of the suit property will be decided by the trial court in the Suit filed under Section 6 of the Specific Relief Act.

4. Considering the fact that the respondent has already filed a suit under Section 6 of the Specific Relief, nothing survives in this appeal. Hence the appeal is disposed of.

5. Civil application is disposed of in view of disposal of the appeal.

(ANUJA PRABHUDESSAI, J.)