

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

**APPEAL FROM ORDER NO.699 OF 2014
with
CIVIL APPLICATION NO.842 OF 2014
with
APPEAL FROM ORDER NO.700 OF 2014
with
CIVIL APPLICATION NO.843 OF 2014**

Surendrakumar Dinkar Naik ... Appellant

Vs.

The State of Maharashtra & Ors. ... Respondents

Dr.P.K. Deshmukh, Advocate appointed for the Appellant
Mr.Yogesh Dabke, AGP, for Respondent – State
Mr.N.P Wagle for Resp. No.3

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JANUARY 22, 2018**

P.C. :

1. Mr.Deshmukh, learned Counsel for the appellant, was appointed from the Legal Aid Services on 21.8.2015, as a request was made by the appellant, who appeared in person. The learned Counsel submits that till today, though he is appointed and appearing in the matter, the appellant did not contact him.
2. The learned Counsel for the respondent No.3, the main contesting party, is present.

3. The plaintiff had filed the suit wherein a Motion was taken out by him bearing Notice of Motion No.369 of 2013 that defendant No.3 should be restrained from dispossessing him from room No.19, New BDD Chawl No.12B, G.K. Road, Naigaum, Dadar (East), Mumbai. Respondent No.3 i.e., original defendant No.3, also took out a Motion bearing No.2689 of 2013 that the plaintiff should not cause obstruction or interference in her peaceful possession of the suit room. After hearing the Motions, the learned trial Judge by a common order dated 21.6.2014 rejected the Motion of the plaintiff and partly allowed the Motion taken out by respondent/defendant No.3 with a direction that the appellant/plaintiff shall not cause obstruction and shall not interfere in the possession of defendant No.3 over the suit room against which the appellant/plaintiff filed the present two appeals.

4. The learned Counsel for the appellant/original plaintiff submits that the suit room was owned by his father. After his death, his brother and mother had joint undivided right and title as a tenant of the Government. However, his brother without obtaining consent and signature either in the MoU or subsequent transfer deed, transferred the suit room in favour of the present

respondent No.3/defendant No.3 and, therefore, he has filed the suit.

5. Considered the submissions and on perusal of the impugned order and considering the nature of the order of injunction and as the suit is pending from 2012 and defendant No.3 is admittedly in possession of the suit premises, these Appeals are dismissed. The trial Court to endeavour to proceed with the trial and try to expedite the suit.

6. In view of the dismissal of the appeal, the Civil Applications do not survive and the same are disposed of as such.

(MRIDULA BHATKAR, J.)