

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

19 SECOND APPEAL NO.265 OF 2019
WITH CA/5512/2019 IN SA/265/2019

YUVRAJ SUKLAL SHIMPI
VERSUS
ANIL KANTILAL PATIL AND OTHERS

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Mr.D.D. Choudhari holding for Mr.J.R. Shah,
Advocate for appellant.

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CORAM: V.L. ACHLIYA,J.
DATE : 13.08.2019

ORAL ORDER:

Being aggrieved by the concurrent decisions rendered by the Courts below, the appellant – original defendant no.1 preferred this Appeal.

2. Heard learned counsel for the appellant. Perused the impugned judgment and order passed by the trial Court and confirmed in Appeal.

3. In brief, it is the contention of learned counsel for the appellant that the appellant-defendant no.1 was lawfully put in possession by defendant no.3. It is submitted

that the Courts below erred in holding that the plaintiff is entitled for decree of possession and prohibitory injunction.

4. I have carefully perused the judgment and order passed by the trial Court. There is no dispute about the fact that the premises belongs to defendant no.3 – Municipal Corporation. As per the Respondent No.3 – Municipal Corporation, the premises in question was given on rent to plaintiff i.e. Respondent No.1 on yearly rent of Rs.576/-. The plaintiff has deposited Rs.7,500/- as the deposit towards the present suit premises i.e. Shop. After the deposit of amount of Rs.7,500/-, in terms of the allotment the plaintiff has been put in possession of the said suit premises. The Courts below have consistently held that the defendant nos.1 and 2 have failed to prove that the suit premises was allotted to them and they are in lawful possession of the suit premises.

5. On due consideration of oral and documentary evidence, the Courts below have consistently held that the plaintiff was allotted and put in possession of the suit

premises by the defendant no.3 – Municipal Corporation and he is entitled to seek the possession.

6. The reasons and findings recorded by the Courts below are quite consistent with the evidence adduced in the case. No case of improper appreciation of evidence has been made out. The appeal raises no substantial questions of law to entertain this appeal. There are concurrent decisions rendered by the Courts below. In absence of substantial questions of law involved in the matter, the appeal deserves no consideration. I am therefore not inclined to entertain the appeal. Accordingly the appeal is dismissed.

7. In view of the dismissal of Appeal, the Civil Application No.5512/2019 seeking stay to judgment and decree no more survives. Accordingly the same is dismissed.

[V.L. ACHLIYA]
JUDGE