

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

**APPEAL FROM ORDER NO.749 OF 2019
WITH
CIVIL APPLICATION NO.891 OF 2019**

Hindurao Subrao Dandavate	... Appellant (Org. defendant)
Versus	
Satappa Dattatray Sonule and Ors.	... Respondents (Org. plaintiffs)

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Mr. Abhijit M. Adagule for the Appellant.
Mr. Chetan G. Patil for the Respondent Nos.1 and 2.

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CORAM : M. S. KARNIK, J.

DATE : 24th JULY, 2019.

P. C.:

- . Heard learned counsel for the parties.
2. Learned counsel for the appellant seeks leave to delete respondent No.3-A as she has died. In any case her legal heirs are already on record.
3. Leave to amend is granted.
4. Amendment to be carried out forthwith.
5. The plaintiffs filed a suit before the Trial Court for a perpetual injunction restraining the defendant from causing obstruction in plaintiffs possession over the suit property.

There are tenancy proceedings between the parties. The Trial Court dismissed the suit. The Trial Court found that the plaintiffs failed to prove the possession of the suit property.

6. The plaintiffs therefore filed an Appeal before the District Judge, Kolhapur. In the said Appeal an application exhibit 7 was filed for grant of temporary injunction order. The Appellate Court found that during the pendency of the suit there was injunction in favour of the plaintiffs.

7. Learned counsel for the appellant-original defendant argued that it is only because the injunction was operating in favour of the plaintiffs during the pendency of the suit, the Appellate Court has granted interim protection in favour of the plaintiff during the pendency of the Appeal. In his submission once the Trial Court has arrived at finding that the plaintiffs could not prove their possession then the Appellate Court should not have allowed application for temporary injunction.

8. I have heard learned counsel for the respondents also.

9. I have gone through the order of the Appellate Court. The Appellate Court apart from observing that there was an injunction in favour of the plaintiffs during the pendency of the suit, has also considered in Para 10 of the order various documents on record to prima facie come to the conclusion that the plaintiffs are in possession of the suit property.

10. In this view of the matter, I see no reason to interfere with the order passed by the Appellate Court. The Appeal is therefore dismissed.

11. However taken into consideration the controversy involved, the Appellate Court is requested to hear the Appeal itself as expeditiously as possible preferably within a period of eight months from today.

12. In view of the dismissal of the Appeal, nothing survives for consideration in the Civil Application. The Civil Application is disposed of accordingly.

(M. S. KARNIK, J.)