

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

**APPEAL FROM ORDER NO. 343 OF 2017
WITH
CIVIL APPLICATION NO. 440 OF 2017**

Ashwin Arvind Naik	...	Appellant
V/s.		
Arvind Panditrao Naik	...	Respondent

Mr.S.S. Redekar for Appellant.

CORAM : A.S. GADKARI, J.

DATE : 13th November 2019.

PC. :

1] By the present Appeal, the appellant, son of the respondent, has impugned Order dated 19th October 2016 passed in Notice of Motion No.2476 of 2014 in S.C. Suit No.2180 of 2013 filed by the respondent-father, thereby making the said motion absolute in terms of prayer Clause (b).

2] Heard Mr.Redekar, learned counsel for the appellant. Perused the record.

3] The record indicates that, the respondent-father is the exclusive owner of the suit property. That the said property was earlier jointly owned by the respondent along with his wife. After the demise of the wife of the respondent, the respondent has become sole and exclusive owner of the said property. It further appears that, the respondent is intending to sell the suit premises and therefore issued notice dated 7th September 2012. It is the case of the respondent that, the appellant being his son is constantly harassing him with an intention to dispossess him from the suit premises. That the respondent is unable to withstand the pressure exerted by the appellant, who is his own son. In the premise the respondent has filed the aforestated suit for injunction and other consequential reliefs. The respondent had taken out the aforestated Notice of Motion seeking injunction for restraining the appellant, his agents, representatives and/or servants from entering into the suit premises.

4] As noted earlier, the record clearly indicates that, the respondent along with his wife were the joint owners of the suit premises and after the demise of the wife of the respondent, the respondent has become sole and exclusive owner of the suit premises. The Appellant has

no right, title or interest in the suit premises except the fact that he is the son of the respondent. This is an unfortunate litigation wherein the father has to approach the Court seeking injunction against his own son from dispossessing him from the suit premises and for restraining Order against his son.

5] Perusal of record would further indicate that, the appellant has no right or title in any manner in the suit premises. The respondent is in actual use, occupation and possession of the suit premises. Balance of convenience heavily lies in favour of the respondent. In view thereof, this Court is of the considered view that, the Trial Court has not committed any error either in law or on facts while passing the impugned Order dated 19th October 2016.

6] I find no merits in the Appeal.

Appeal is accordingly dismissed.

7] In view of dismissal of the Appeal, Civil Application does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]