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

**APPEAL FROM ORDER NO. 580 OF 2018
WITH
CAA NO. 768 OF 2018**

Mr. Paul Joseph Kolemkanani

...Appellant.

Vs

M/s Neepa Real Estates Pvt.Ltd. & Anr.

..Respondents

Mr. Rakesh Tiwari for appellant.

Mr. Amol Mhatre for Respondent No.1.

Mr. Akhilesh Upadhyay for Respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 10th January 2020.

P.C.:

1] By the present appeal, the appellant/original plaintiff has impugned Order dated 14th December 2017 passed by the learned Judge, City Civil Court, Mumbai, rejecting Notice of Motion No.2958 of 2016 in S.C. Suit No.2521 of 201

2017.

4] The record clearly indicates that, the respondent No.1 has purchased the said suit property from erstwhile Borosil Glass Works Ltd by way of registered Deed of Conveyance. That in the earlier round of litigation, a decree of eviction was passed against Mr. K.P Joseph, the father of the appellant. At the time of execution of the said decree of eviction, one Gangadhar T. obstructed it and refused to hand over the possession of suit property. The said Borosil Glass Works Ltd. therefore filed Chamber Summons No.1536 of 1997 in Suit No. 967 of 1975 for removal of said obstructionist. The said Chamber Summons was allowed by this Court by its Order dated 16.10.1998 and the said Borosil Glass Works Ltd was put in possession of the said property.

5] It is thus clear that, the father of the appellant namely K.P. Joseph was never in possession of suit property and the claim of the appellant is wholly misconceived and contrary to the record produced before this Court.

6] In view of the Order dated 16.10.1998 passed in Chamber Summons No.1536 of 1997 in Suit No. 967 of 1975 by this Court, no interference is called for in the Court in Order passed by the Trial Court.

I find no merits in the present appeal and the same is accordingly dismissed.

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

(A.S.GADKARI, J.)