

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

CIVIL REVISION APPLICATION NO. 20 OF 2020

Rajendra Vitthal Pagdhare	...	Applicant
V/s.		
Hajibhai B. Fatwani & Anr.	...	Respondents

Mr. P. M. Chakurkar for Applicant.
Mr. Parag Mishra for Respondents.

CORAM : A. S. GADKARI, J.

DATE : 12th February 2020.

PC. :

1] By the present revision application, the applicant has impugned, Order dated 16.08.2018 passed below Exhibit- 5 in Civil Appeal No. 23 of 2018, rejecting the application for grant of stay to the execution of the Judgment and Decree dated 18.04.2018 in Regular Civil Suit No. 120 of 2015 passed by learned Civil Judge, Junior Division, Dahanu.

2] Heard, Mr. Chakurkar, learned counsel for the applicant and Mr. Mishra, learned counsel for the respondents.

3] Perusal of record would reveal that, the suit for injunction filed by the respondents, wherein the applicant was Defendant no. 2, the Trial Court decreed the said suit by its Judgment and Order dated 18.04.2018.

The applicant preferred afore-stated Civil Appeal No. 23 of 2018 against the Judgment and Order dated 18.04.2018 which is subjudiced.

The applicant also filed an application below Exhibit – 5 in the said appeal for stay of the execution of decree of the Trial Court, which has been rejected by the impugned order.

5] Perusal of record would further indicate that, the respondents have proved their legal possession over the suit property and the applicant has failed to prove the fact that, the suit property is in his possession after 01.02.1979. The Trial Court has recorded finding in that behalf. The Trial Court has also held that, the applicant herein has failed to bring on record evidence to establish his possession over the suit property.

It is thus, prima-facie clear that, the applicant herein was and is not in possession of the suit property. The Appellate Court therefore has rightly rejected the said application by the impugned order.

6] After perusal of record, this Court is of the considered view that, the Appellate Court has not committed any error while passing the impugned, Order dated 16.08.2018.

7] In view thereof, the present revision application is dismissed.

[A.S. GADKARI, J.]