

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

**APPEAL FROM ORDER NO. 1064 OF 2019
IN
NOTICE OF MOTION NO. 2079 OF 2017
IN
S.C. SUIT NO. 1091 OF 2017**

Umesh S. Pasi **...Appellant**

V/s.

Shyamdas P. Pasi **... Respondent**

...

Mr. A.A. Ansari, Advocate for the appellant.

Mr. Yatin R. Shah a/w. Ms. Divya Tekwani, Advocate
for the respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : TUESDAY, 26TH APRIL, 2022.

P.C. :

1. Appellant-plaintiffs' suit against, his father-defendant no.1 seeks a decree, to declare his half share in the suit Flat. Indisputably, suit flat was allotted to defendant no.1, as Project Affected Person. A letter of allotment dated 3rd May, 2008 and other evidence on record, reveals that, defendant alone was eligible for allotting the suit flat as alternate

accommodation being project affected person. Although, the plaintiff claims that, he was in possession of the suit flat, since its allotment, nevertheless, prima-facie, character of his right in the suit property was that of gratuitous licensee. For all that reasons, the impugned order declining, to restrain defendant no.1, from creating third party right in the suit flat, calls for no interference. The Appeal is therefore dismissed.

2. However, in consideration of the facts of the case, it would be appropriate if the trial Court concludes the trial in the suit expeditiously. Appeal is disposed of.

NEETA
SHAILESH
SAWANT

(SANDEEP K. SHINDE, J.)

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