

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.58 OF 2022
WITH
INTERIM APPLICATION NO.251 OF 2022**

Nilkant Dattaram Pawar .. Appellant

Versus

Darshana Krishna Pawar & Ors. .. Respondents

...

Mr.Rahul P. Kasbekar for the Appellant/Applicant.

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**CORAM: BHARATI DANGRE, J.
DATED : 08th APRIL, 2022**

P.C:-

1. The present appeal is filed being aggrieved by the order dated 20/11/2021 passed by the City Civil Court, Mumbai, on Notice of Motion filed in S.C.Suit No.2293 of 2019.

The plaintiff and the husband of defendant No.1 are real brothers whereas defendant Nos.2 and 3 are the sons of defendant No.1. The suit property being a residential room No.19 situated in Raoji Shojpal Chawl, R.S.Compound, T.J.Road, Sewree, Mumbai and the plaintiff claimed that he was dispossessed from the suit premises illegally and, therefore, he approached the Court by filing the said suit

praying for a permanent order and injunction restraining the defendants from physically preventing him and his family members from occupying the house and enjoyment of the house jointly with the defendants.

2. The Notice of Motion sought an interim protection and the same came to be rejected under the impugned order by recording that since the plaintiff himself had admitted that he is not in possession of the suit premises on the date of filing of suit and from the documentary evidence it was apparent that he was not residing in the suit premises, granting relief in the Notice of Motion would amount to a final relief being conferred on him. Recording that no prima facie case has been made out, Notice of Motion is rejected.

3. I find no legal infirmity in the said order and the position of law being well settled to the effect that final relief cannot be granted at the interim stage and when the plaintiff has specifically admitted that he is not residing in the suit premises, by way of interim order, he could not have been placed back in the premises which is presently in occupation of the defendants.

Since the suit is pending since 2019, the City Civil Court is requested to make an endeavour to dispose off the suit expeditiously and, preferably, within a period of one year from today.

4. With the aforesaid direction, the appeal stands dismissed.

5. In view of the dismissal of the Appeal from Order, interim application does not survive and stands disposed off.

(SMT. BHARATI DANGRE, J.)