

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

APPEAL FROM ORDER NO. 175 OF 2022

Nasiruddin Aminuddin Siddiqui	 Appellant
v/s.	
Junaid Akberally Khan and ors.	 Respondents

Mr. Yatin R. Shah a/w. Shweta Singh for the Appellant.
Adv. Shehzaz Naqvi a/w. S.A.A. Naqvi and Ms. Sana
Siraj Shaikh for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th DECEMBER, 2022.

P. C. :-

. The Appellant-Plaintiff has challenged the order dated 23/10/2021 whereby the learned Judge, City Civil Court, Greater Mumbai has dismissed the Notice of Motion No.2365/2021 filed in Suit (St.) No.7529/2021.

2. The dispute is in respect of tenanted premises situated at 'C' Block, Ground Floor, La Pinta Mansion, Pednekar Marg, Opp. Bhoiwada Police Station, Parel, Bombay – 400012. Mr. Akberali Azamali Khan was the tenant in respect of the suit premises. The Appellant (hereinafter referred to as 'the plaintiff') is the son-in-law whereas Respondent No.1 is the son of the original tenant. The Plaintiff claims that he was residing in the suit premises since his marriage. The Plaintiff has alleged that the

Respondents have restrained him from entering the suit premises and that he has been forcibly dispossessed. He has filed a suit under section 6 of Specific Relief Act, during the pendency of which he has sought interim mandatory relief and appointment of Court Receiver.

3. It is not in dispute that the wife of the plaintiff i.e., the daughter of the original tenant expired in February, 2021. The plaintiff re-married immediately thereafter and since then he is residing in a different premises with his 2nd wife. Though the plaintiff claims that he was doing the business of repairs of watches in the said premises, there is no prima facie material to demonstrate that the premises were used for commercial purpose. The plaintiff has prima facie failed to prove that he was in possession and that he has been forcibly dispossessed from the suit premises. The impugned order does not suffer from any illegality or infirmity. Hence, the Appeal is dismissed.

**PREETI
H JAYANI**

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(SMT. ANUJA PRABHUDESSAI, J.)