

Nikita

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

WRIT PETITION NO.6502 OF 2022

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Vidya Dhananjay Vibhute

Petitioner

...

V/s.

Sayaji Ganpatrao Deshmukh

... Respondent

Mr. Chandrakant Yadav, for the Petitioner.

Mr. Pratap Patil, for Respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 1, 2023

P.C.:

1. Challenge in this petition is to the order passed by the Appellate Court rejecting temporary injunction application filed by the respondent/plaintiff.
2. The petitioner filed Regular Civil Suit No.544 of 2020, seeking injunction against respondent not to disturb her possession over the suit property. Petitioner claims to be in possession based on registered Lease Deed dated 19th April 2017. Period of Lease as per the plaint is 10th July 2017 till 10th February 2026. It is alleged that Rs.2,00,000/- is paid towards lease rent.
3. The respondent contested the suit denying the averments in the plaint. The Trial Court by order dated 13th October 2021, granted injunction against the defendant restraining him from

disturbing possession of petitioner over the suit property. The Appellate Court by impugned order dated 30th April 2022, allowed the appeal and rejected the application for injunction.

4. The Appellate Court allowed the appeal based on statements recorded by the concerned Police Station. The Appellate Court also relied on representations made by the petitioner to the Home Minister and Superintendent of Police to record the finding that even after execution of Lease Deed, petitioner was not put in possession. Therefore, documents on record indicate that petitioner was not in possession of suit property. Apart from the averments in the Lease Deed, no other material is produced by the petitioner to prima facie prove possession over the suit property. The petitioner being plaintiff, it is for the plaintiff to prove possession over the suit property. In absence of such proof, the Appellate Court is justified in allowing the appeal and rejecting the application for temporary injunction.

5. Therefore, no interference under Article 227 of the Constitution of India is called for.

6. The writ petition is dismissed. No Costs.

(AMIT BORKAR, J.)