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

**SECOND APPEAL NO.272 OF 2022
WITH
INTERIM APPLICATION NO.1909 OF 2022**

Hanmant Kisan Karande ...Appellant/Applicant
Versus
Anusaya Hanmantrao Barge & Ors. ...Respondents

Mr. Prabhanjan B. Gujar, for the Appellant/Applicant.
Mr. R.C. Barge for the Respondent Nos.2 to 5.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 1st FEBRUARY 2023**

P.C. :

1. Heard Mr. Gujar, learned counsel for the Appellant and Mr. Barge, learned counsel appearing for the Respondent Nos.2 to 5.
2. The admitted position is that open plot is let out to the father of the defendants and he has constructed Tin shed over the same. Both the Courts have concurrently held that the plaintiffs have duly terminated the lease and therefore, entitled to possession of the suit property.
3. Mr. Gujar, after taking instructions made a statement that the Appellant is accepting the Judgment and Decree passed by the

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learned Trial Court as confirmed by the learned First Appellate Court. His only request is that the Appellant be granted eight months time to vacate the suit premises. The learned Advocate of the Appellant has filed undertaking dated 28th January 2023 of Hanmant K. Karande i.e. the Appellant, Nirmala H. Karande i.e. wife of the Appellant, Aashish H. Karande i.e. son of the Appellant and Shakuntala A. Shikhare, Respondent No.6 i.e. sister of the Appellant. In the undertaking, it has been stated that the Appellant – Hanmant Karande is in possession of the suit property along with his wife Nirmala H. Karande and his son Aashish. In the undertaking, they have stated that they will vacate the suit premises on or before 30th September 2023 and hand over vacant and peaceful possession of the same to the Respondent Nos.2 to 5. They have further stated that for the period of 1st February 2023 till 30th September 2023 they will pay rent @ Rs.2,000/- pm. Sister of Appellant i.e. Shakuntala A. Shikhare who is also the Respondent No.6 has stated that she is not in possession of the suit premises. In all these undertakings, it is mentioned that they will not create third party interest with respect to the suit premises. The undertakings filed by the Appellant Hanmant K. Karande, his wife Nirmala H. Karande, his son Aashish

Pallavi

Karande and his sister Shakuntala A. Shikhare are accepted.

4. Second Appeal is dismissed as there is no substantial question of law involved in the Second Appeal in view of the concurrent finding recorded by both the Courts. However, the Appellant is granted time to vacate till 30th September 2023 in view of undertakings given by the Appellant and his family members.

5. It is clarified that if the Appellant and the aforesaid persons fail to vacate the suit premises on or before 30th September 2023 then Respondent Nos.2 to 5 are at liberty to file an application in the Executing Court seeking appointment of Court Receiver and then in that case immediately, the learned Executing Court to appoint the Court Receiver and to get forcible possession from the Appellant and these persons even by providing police protection. This direction is issued in addition to the other steps which the Appellant may initiate against Appellant and aforesaid persons including seeking action for violating the undertakings given to this Court and for committing contempt of this Court.

6. Second Appeal is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]