

VRJ

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

CIVIL REVISION APPLICATION NO.412 OF 2023

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Date: 2023.12.06
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Parmeshwar Ramchandra Pawar
(Sudake)

... Applicant

V/s.

Mohan Ramchandra Pawar (Sudake)

... Respondent

Mr. Purushottam G. Chavan for the applicant.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 6, 2023

P.C.:

1. The plaintiff raises objection to the maintainability of counter claim on the ground that prayer clause (a) is not available as such relief is barred by Order 23 Rule 3(a) of the Civil Procedure Code, 1908. However, on the meaningful reading of counter claim, it appears that the defendant has made two prayers. Second prayer is for injunction against the plaintiff not to disturb defendant's possession over property 11(b). On reading of the plaint, it appears that such relief of injunction is not a consequential prayer of prayer clause (a). Therefore, even if the argument of the applicant is to be considered, it is well settled that part of plaint cannot be rejected.

2. Therefore, keeping the question raised by the applicant to be

agitated in the suit, the civil revision application is disposed of. No costs.

(AMIT BORKAR, J.)