



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 WRIT PETITION NO. 4233 OF 2024

JALINDAR GAJANAN DAHATONDE

VERSUS

FEROZ GULAB MALJAPTE

...

Advocate for the Petitioner : Adv.D.B.Rode

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CORAM : ARUN R. PEDNEKER, J.

DATE : 23.04.2024

P.C. :

1] Heard the learned counsel for the petitioner. The learned counsel for the petitioner contends that the trial Court has rendered *prima facie* finding of possession. The learned counsel for the petitioner further submits that the Appellate Court erred in interfering with the finding of the trial Court as regards possession on the ground that at earlier point of time the respondent-plaintiff was in possession over the suit property and there is no evidence of surrender of possession. The learned counsel further submits that the respondent-plaintiff has not filed any documentary evidence to show that from January, 2020 till the date of filing of the suit, the plaintiff was in possession of the suit property. Without considering the said fact, the Appellate Court has allowed the Appeal by order dated 26.02.2024 and the same is illegal.

2] Issue notice to the respondent, returnable on 18.06.2024.

3] The prayer for interim relief will be considered on returnable date.

[ARUN R. PEDNEKER]
JUDGE

DDC