



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2543 OF 2025**

Chhotelal Chhunilal Yadav ... Petitioner
versus
The Municipal Corporation of Gr. Mumbai and Ors. ... Respondents

Mr. Pradeep Thorat with Mr. Hemant Ghadigaonkar, for Petitioner.
Mr. Anand Khairnar i/by Mr. Komal Panjabi for Respondent Nos.1 to 3.
Mr. Rohan Wavant with Mr. Rakesh Agrawal, Mr. Sandeep Nirban, Mr. Darpan Jain, for Respondent No.4.

CORAM: N.J.JAMADAR, J.

DATE : 25 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The Petitioner, who has instituted a suit for recovery of possession of the immovable property under Section 6 of the Specific Relief Act, 1963, takes exception to the order dated 3 January 2025 passed by the learned Judge, City Civil Court in Notice of Motion No.2977 of 2024 taken out by the Petitioner to restrain Defendant No.4, its partners, engineers, supervisors, contractors, agents, servants from further excavating, digging and/or carrying any construction activity or changing the nature of the suit property B, C and D shown in rough sketch plan Exhibit A, and creating third party interest therein till the decision of the suit.
3. The Petitioner claimed that he was forcibly dispossessed on 2 August 2024 by the Officers of the Respondent No.1/Defendant No.1 Corporation at

the behest of Defendant No.4. Thus, the suit for recovery of possession of the suit properties has been instituted under Section 6 of the Specific Relief Act, 1963. However, in the meanwhile, if the Defendant No.4 changes the nature, character and status of the suit properties, the suit would be rendered infructuous. Hence, the Notice of Motion for interim reliefs.

4. The learned Judge, City Civil Court, was of the view that the Plaintiff failed to establish that he was in possession of the suit properties B, C and D, and, therefore, the Plaintiff was not entitled to seek interim reliefs in the said suit.

5. Mr. Thorat, learned Counsel for the Petitioner, made an earnest endeavour to take the Court through the voluminous record in relation to the , prior multiple proceedings to which the Petitioner was a party and the contemporaneous record in the nature of the lodging of the complaints with the Police by the Petitioner to bolster up the case that the Petitioner had been in settled possession of the suit properties B, C and D. Special emphasis was laid on a notice of termination of the lease issued on 4 May 2022 purportedly by the successor in interest of the Petitioner's lessor Shivprasad Yadav and the suit instituted by the Petitioner before the Court of Small Causes being RAD No.291 of 2023 and an order passed therein, whereby the Defendant No.4 came to be impleaded as a party to the said suit.

6. In the face of the aforesaid material on record Mr. Thorat urged that, the

learned Judge, City Civil Court could not have proceeded on the basis of the orders passed in S.C.Suit No.71 of 2015 which is still sub-judice to arrive at a conclusion that the Petitioner-Plaintiff failed to prima facie establish possession over the suit properties B, C and D.

7. Having perused the orders in Notice of Motion No.157 of 2015, dated 2 February 2015, and Notice of Motion No.3894 of 2017, dated 13 March 2018, in S.C.Suit No.71 of 2015, wherein categorical findings have been recorded that the Plaintiff failed to establish that he was in possession of the portion of land admeasuring 3324.75 sq.ft. and the structures thereon (which comprised suit properties B, C and D), this Court does not find any infirmity in the impugned order.

8. Incontrovertibly, the aforesaid orders passed in S.C.Suit No.71 of 2015 have not been assailed by the Plaintiff. In the said orders, the City Civil Court has ascribed reasons for arriving at the conclusion that the Plaintiff failed to establish prima facie possession over the suit properties B, C and D. Consequently, the very factum as to whether the Plaintiff was in possession of the suit properties B, C and D, of which he alleges dispossession on 2 August 2024, is in the corridor of uncertainty. Therefore, in the face of the aforesaid judicial determination, in the former suit, between the same parties, the learned Judge, City Civil Court committed no error in declining to grant interim relief which could be legitimately claimed by a person asserting proprietary

title and not by one, who seeks recovery of possession based on prior possession. Thus, the Writ Petition does not deserve to be entertained.

9. The Writ Petition stands dismissed.

10. No costs.

(N.J.JAMADAR, J.)