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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 334 OF 2018**

Mr. Shashikant Laxmichand Dhula ... Applicant

Vs.

Mrs. Ruxmani N. Gosalia ... Respondents

(since deceased) Mrs. Hema Apurva

Mehta and Others

Mr. Sanjay T. Manek for the Applicant.

Mr. Prasad Dani, Senior Advocate a/w. Mr. Jamsheed Master

and Mr. Aniket Worlikar i/b. Nitin Morajkar for Respondent

No. 1.

CORAM : GAURI GODSE, J.

DATE : 9th SEPTEMBER 2026

ORDER :

1. This civil revision application is filed by the original plaintiff to challenge the judgment and decree passed by the appellate bench of the Small Causes Court setting aside the trial court's decree in his favour. The trial court had allowed his suit, thereby declaring that the plaintiff is a tenant in respect of the suit premises, i.e. Room No. B-2 on the ground floor of Lal Bungalow. The applicant is claiming through the original tenant, who, according to him, was his grandmother.

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2. In an appeal preferred by defendant no. 1, the appeal bench has considered the documentary and oral evidence on record and disbelieved the plaintiff's case that he is a tenant of the suit premises. The plaintiff did not step into the witness box and led evidence through the power of attorney holder.

3. Learned counsel for the applicant ("plaintiff") submits that various documents were produced on record and considered by the trial court to accept that he is a monthly tenant of the suit premises. He submits that the appellate bench has failed to appreciate the documentary evidence placed on record. According to the learned counsel for the plaintiff, the appellate court erroneously decided the issue of limitation by holding that the suit is barred by the law of limitation. He submits that the plaintiff was continuously paying rent, and since the landlord refused to accept it, he issued a notice requesting the landlord to accept the rent amount from the plaintiff. Since the landlord refused to accept rent from July 2000, the right to sue accrued in favour of the plaintiff, and the suit filed in February 2001 is well within limitation. He relies upon Article 58 of the Limitation Act, 1963 to show that the suit is within the limitation. He

therefore submits that the impugned judgment and decree would warrant interference by this court.

4. I have perused the papers. The appeal bench has considered in detail the pleadings with reference to the cause of action pleaded by the plaintiff. The right to sue in December 2000 is not accepted as a valid cause of action for claiming limitation as provided under Article 58 of the Limitation Act, 1963. The plaintiff is seeking declaration as tenant under Section 7(15)(d) of the Maharashtra Rent Control Act, 1999 ("Rent Act"). The appeal court has therefore held that after the death of the original tenant in the year 1975, the right to sue accrued to claim tenancy as contemplated under Section 7(15)(d) of the Rent Act. The date of death of the original tenant is not in dispute. Hence, merely claiming to be the grandson of the original tenant and issuing a notice to accept rent from him is not a valid and meaningful cause of action.

5. The plaintiff claims to have been residing in the suit premises along with his father. A dispute has been raised as to whether his father was a real son or was adopted by the original tenant. Defendant no.1 contended that there is an

inter se dispute between the family members of the original tenant and further disputed the relationship of the plaintiff with the original tenant. The plaint is bereft of any pleadings as to why defendant nos. 2 to 8 were subsequently added as parties; out of the said defendants, only defendant no. 8 filed a written statement. Defendant no. 8 contended that defendant nos. 2 to 8 and the plaintiff resided in the suit premises and another premises, i.e. room no. D-6 in the same building. Thus, even defendant no. 8 claimed tenancy rights in the suit premises.

6. The plaintiff failed to examine his father to support his contention that he always resided with the original tenant along with his father. The plaintiff's power of attorney holder admitted in cross-examination that defendant no. 7, Sharad Dhulla, was residing with the original tenant when she expired in 1975.

7. Learned counsel for the applicant relies upon the list of documents annexed on page 83 of the Civil Revision Application. He submits that all these documents support the applicant's case that he is in possession of the suit premises. He further refers to the findings recorded by the appeal court

in paragraph nos. 21 to 23 of the judgment. He submits that the appeal court did not correctly appreciate the documents referred to. He therefore submits that this court's intervention is necessary to correctly appreciate the documents produced by the applicant which prove that he was in possession of the suit premises.

8. The appeal bench has recorded that the documents which are in the name of the plaintiff do not pertain to the description of the suit premises and they refer only to the address which is mentioned as 'Lal Bungalow '. The appeal bench of the small causes court also referred to other documents and admissions by the plaintiff's power of attorney holder that the family of Laxmichand Dhulla held two premises, having in their possession B-2 and D-6. Hence, with reference to the description of the suit property, the appeal bench has appreciated all the documents and recorded the findings of fact that none of the documents would show that the plaintiff is in possession of the suit premises and, more particularly, to show as residing along with the original tenant for claiming tenancy as defined under Section 7(15(d) of the Rent Act. I have perused the findings recorded by the trial court and the appellate court. I do not

see any fault in the reasons recorded by the appeal bench with reference to the address mentioned in all the documents that are relied upon by the plaintiff.

9. Learned counsel for the applicant relied upon the decision of this court in the case of *Pius Bonaventure Fernandes Vs. Manu Narang (Deceased) through Lrs¹*, to support his submissions that the suit for declaration of the tenancy would be within the limitation as it is filed within three years from the date of refusal of the landlord to recognise the plaintiff as a tenant. He submits that, in the said decision, this Court has taken the time to file a suit for the relief of declaration would begin to run only from the defendant's express denial of the plaintiff's tenancy rights. He submits that even the present suit is filed within three years from the date of the landlord's refusal to recognise the plaintiff as a tenant and to accept the rent offered by the plaintiff by notice. He therefore submits that the original tenant's date of death is irrelevant.

10. I have perused the said decision. In the facts of the said case, the defendant has not denied the plaintiff's tenancy right, as evidenced by the order passed in the suit.

¹ 2012 (2) ALL MR 112

The order passed by the trial court is reproduced in the said judgment. Hence, with reference to the facts of the said case, where the landlord had not denied the tenancy rights of the plaintiff, and there was also a prayer for possession, this court held that the denial of the tenancy right would be a relevant date for computing the period of limitation.

11. In the present case, the landlord specifically denied the plaintiff's tenancy rights. The appeal court disbelieved the documents relied upon by the plaintiff to support his contention of possession, as they lacked specific documents describing the suit property to establish that the plaintiff was in possession of the suit property. The plaintiff has not produced any supporting documents showing possession of the suit property, nor any documentary evidence that the landlord accepted rent from the plaintiff. Hence, the issue regarding denial of recognition of the plaintiff as a tenant would not be a relevant factor for computing the period of limitation. The appeal bench has therefore rightly appreciated the facts pleaded by the plaintiff and the evidence on record to decide the issue of limitation.

12. The appeal bench discussed the pleading that the right

to sue first accrued on 7th December 2000, when the plaintiff's notice was replied to denying the plaintiff's status as a tenant. The tenancy in the present case is admittedly claimed by the plaintiff as the heir and legal representative of the original deceased tenant. The plaintiff claims to have resided in the suit premises along with his father. Hence, on the ground that the plaintiff is the tenant's grandson, he claims tenancy rights. However, in view of the admissions given by the plaintiff's witness with reference to the different addresses shown in respect of the documents relied upon by the plaintiff, his claim is disbelieved for the purpose of computing limitation on the ground that denial of recognition of his tenancy rights is not a relevant date for computation of limitation. Hence, considering the admissions given by the plaintiff, the reasons recorded by the appeal bench cannot be faulted. Thus, in view of the different facts of the present case, the observations made by this court in the decision of ***Pius Bonaventure Fernandes***, relied upon by the learned counsel for the applicant, would not be of any assistance in the present case.

13. With reference to the findings recorded by the appellate

court, discussing the entire evidence and the admission given by the power of attorney holder, the plaintiff's claim is disbelieved that he was at any time residing in the suit premises. Although the learned counsel for the applicant has relied on various documents referred to by the trial court in the judgment, none of the documents supports the tenancy claim for a declaration of tenancy as defined under Section 7(15)(d) of the Rent Act.

14. With reference to the findings recorded by the appellate court, after considering the entire evidence and the admissions given by the power of attorney holder of the plaintiff, the findings of fact do not warrant any interference. In the absence of any particular evidence to support the plaintiff's theory of being in possession with the original tenant, the appellate bench has rightly reversed the trial court's decree. I do not find any jurisdictional or any other manifest error in the reasons recorded in the impugned judgment warranting any interference under Section 115 of the Code of Civil Procedure, 1908.

15. The civil revision application is devoid of any merit. Hence, the civil revision application is dismissed.

16. In view of dismissal of the civil revision application, the pending interim application is disposed of as infructuous.

[GAURI GODSE, J.]