

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.1011 OF 2010 IN
LETTERS PATENT APPEAL ST.NO.428 OF 2010 IN
WRIT PETITION NO.4865 OF 2003

Kachru Jaywant Salve,
deceased, through L.Rs.
Smt.Shakuntala Kacharu Salve
and others

Applicants

Versus

Sunil Ganpat Ghodekar & others

Respondents

Mr.D.R.Irale Patil, advocate for applicants.
Mr.S.T.Shelke, advocate for Respondents No.1 to 6.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 19th June, 2015

PER COURT:

Heard.

In view of the reasons recorded in the application,
application deserves to be allowed and same is accordingly allowed.
Delay of 63 days occurred in presenting instant Letters Patent
Appeal stands condoned.

Civil Application is disposed of.

**P.R.BORA
JUDGE**

adb/ca101110

**R.M.BORDE
JUDGE**

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PER COURT:

1 This is an appeal challenging the order dated 05.10.2009, passed by learned Single Judge in Writ Petition No.4865 of 2003.

2 Respondents-landlords initiated proceedings for eviction of tenant by instituting a suit claiming recovery of possession on the ground of *bona fide* personal requirement as well as on the ground that the tenant is defaulter in payment of rent.

3 So far as *bona fide* requirement of the landlord is concerned, a finding has been recorded against the landlord,

whereas, it has been concurrently held by the Courts below that the tenant is defaulter in payment of rent. The order of eviction passed by the trial Court has been confirmed by the first appellate Court. The learned Single Judge has also dismissed the writ petition raising challenge to the concurrent findings recorded by the Courts below.

4 It is argued on behalf of the tenants that in view of Section 15 of the Maharashtra Rent Control Act, 1999, since the tenants have deposited amount of rent at appellate stage, they cannot be branded as defaulter and relief of eviction against them cannot be granted.

5 The argument is devoid of substance since it is noticed that the instant case is governed by the old provisions. The Act of 1999 is enforced since 31.03.2001, whereas, in the instant matter, proceedings for eviction were initiated by the landlord in the year 1985. The reasoning recorded by the learned Single Judge, while turning down claim of the tenant, is reasonable and proper. No interference is called for in the Letters Patent Appeal. The appeal is devoid of substance.

6 Letters Patent Appeal stands dismissed. Pending Civil Applications, if any, do not survive and stand disposed of.

7 Learned Counsel appearing for appellants-tenants seeks time for vacating tenanted premises.

8 Considering facts and circumstances of the case and

considering the fact that the landlord is litigating since 1985, we grant the tenants six months time for vacating suit premises subject to furnishing written undertaking to this Court to the effect that they shall vacate the premises at the end of six months from today and that they will keep the tenanted premises in habitable condition and will pay the arrears of rent as well as current rent regularly.

P.R.BORA
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