

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

CIVIL REVISION APPLICATION NO.140 OF 2014

Late Murlidhar Devram Sarode,
through L.Rs.

1. Smt. Pushpa Murlidhar Sarode
Age 61 years, Occ. Household.
2. Shri Atul Murlidhar Sarode,
Age 36 years, Occ. Service
3. Dipali d/o Murlidhar Sarode
Age 38 years, Occ. Household

All R/o 29, Navipeth, Jalgaon,
District Jalgaon

... APPLICANTS
(Original Defendants)

VERSUS

1. Shri Satyanarayan Ramnarayan Maniyar
Age 50 years, Occ. Chartered Accountant
R/o Ring Road, Jalgaon.
2. Shri Vinodraj Ramnarayan Maniyar,
Age 45 years, Occ. Business,

R/o Laxmikeshav, In front of
Anuvrata Bhawan,
Zilla Peth, Jalgaon.

... RESPONDENTS
(Original Plaintiffs)

.....
Shri M.M. Bhokarikar, Advocate for applicants
Shri M.N. Nawandar, Advocate for respondents
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CORAM: A.I.S. CHEEMA, J.

DATED: 13th January, 2015.

ORAL ORDER :

1. Heard learned counsel for the applicants and learned counsel for the respondents finally. The present revision is on the stage of admission.

2. The point for consideration is whether it is shown that the impugned judgment is illegal or contains material irregularity so as to interfere with the same.

3. The counsel for applicants referred to the judgment of the trial Court in Regular Civil Suit No.266/1999 and the judgment of the Regular Civil Appeal No.279/2007. It has been argued that the trial Court recorded an erroneous finding with reference to Section 12 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. It is argued that, as regards bonafide requirement, the trial Court discussed the evidence, however, the trial Court did not consider that the respondent - landlord, when he purchased the property, was aware that already tenants were there in the premises and the trial Court did

not consider that the respondent - landlord was already residing somewhere else. It has been submitted that, the erroneous finding of the trial Court has been confirmed by the appellate Court. Even regarding alternate accommodation, the submission is that, the photographs which were not duly proved, were relied on. The trial Court wrongly considered that the plot concerned was in the name of the defendant - tenant. According to the counsel, the same has been transferred in the name of son of the tenant. Referring to the reasons recorded by the appellate Court, it was argued that the appellate Court discussed evidence regarding hardship, but did not send back the matter because the trial Court has not specifically raised the issue regarding hardship. Thus, according to the learned counsel, the judgment of the appellate Court needs to be interfered with.

4. Learned counsel for the respondents referred to the findings recorded by the trial Court as well as the appellate Court and the reasons discussed. He submitted that, decree was not passed on ground of default. It was passed for bona fide requirement of landlord and as tenant had acquired alternative suitable accommodation. He submitted that the landlord was himself residing in rented premises and thus, had right to ask for his property. According to learned counsel, the respondent -

plaintiff wanted the suit premises not only for office as Chartered Accountant but also for residence and thus, he wanted his property back. The learned counsel argued that the question of hardship was considered from the evidence which was already available on record and the appellate Court rightly held the question of hardship in favour of respondent - plaintiff. According to him, the concurrent judgments need not be disturbed. Thus, the counsel submitted that there is no reason to admit the revision application.

5. Counsel for both sides wanted to rely on rulings regarding bona fide requirement and alternate accommodation. However, at present I am concerned if there is case to entertain the revision application.

6. Going through the judgment of the trial Court as well as the appellate Court, what appears is that the suit brought on the ground of bona fide requirement and the ground that the tenant acquired alternate accommodation, has been fully appreciated by the trial Court and duly confirmed by the appellate Court. In the judgment of the appellate Court, it cannot be said that any perversity as such has been pointed out in the reasonings adopted. Nothing is shown by applicant that

the reasonings resorted to by the appellate Court were not supported from the record. The decree of the trial Court has been confirmed by the appellate Court and I do not find that any case is made out to entertain the present revision application. On the face of it, no illegality or material irregularity is shown. The revision application stands rejected.

(A.I.S. CHEEMA, J.)

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