

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 812 OF 1996

Anant P. Mule (since deceased
through his Legal Heirs & ors.) .. Petitioners
vs.
Dr. Ramchandra A. Pradhan
(since deceased through his
Legal Heirs & ors.) .. Respondents

Mr. Nitin Deshpande for the Petitioners.
Mr. Madhav Jamdar for the Respondents.

CORAM : M. S. SONAK, J.

Date of Reserving the Judgment : 28 August 2015.
Date of Pronouncing the Judgment : 01 September 2015.

JUDGMENT :-

1] This petition is directed against the judgments and decrees dated 28 June 1989 and 29 April 1995 made by the Trial Court and the Appeal Court respectively, dismissing the original landlord's Suit No. 1336 of 1985 seeking eviction of the original tenant, *inter alia*, on the grounds of default in payment of rent, non-user and reasonable and *bonafide* requirement.

2] Both the Courts have based their findings of facts upon the material on record. No perversity was demonstrated. In exercise of powers under Article 227 of the Constitution of India, this Court does not exercise any appellate jurisdiction, accordingly, it is not possible to grant any relief in this petition.

3] In fact, it is required to be noted that in the Appeal Court, the petitioners had pressed only the ground of reasonable and *bona fide* requirement and upon consideration of the material on record, both the Trial Court as well as the Appeal Court recorded the finding that the ground of reasonable and *bona fide* requirement was not made out by the petitioners. The Appeal Court has made reference to the evidence on record as well as the case law on subject. The Appeal Court has recorded cogent reasons for not interfering with the finding of fact recorded by the Trial Court. Accordingly, no case is made out to interfere with the impugned judgments and decrees.

4] That apart, the respondents have filed an affidavit in this Court to the effect that the original landlord Anant P. Mule has expired on 18 April 1998, during pendency of the present petition, and only some of his legal heirs have been brought on record. Further, during pendency of this petition, one of the legal heirs of late Anant P. Mule, i.e., Dr. Narendra A. Mule, instituted yet another Suit No. 74 of 2002 against the respondents seeking eviction on the grounds of non-user and *bona fide* requirement. In this suit, on 2 July 2006, the said Dr. Narendra A. Mule filed a purshis dated 2 July 2006, unconditionally giving up the claim for possession on the

ground of reasonable and *bona fide* requirement. The said suit came to be dismissed by judgment and decree dated 7 April 2007. Dr. Narendra A. Mule has instituted Appeal No. 456 of 2009 against the judgment and decree dated 7 April 2007 before the Trial Court. The affidavit-in-reply states that during pendency of such appeal, the original tenant Dr. Ramchandra Pradhan has expired on 15 July 2007 and the heirs have not yet been brought on record.

5] Further, the affidavit-in-reply states that during pendency of the present petition as also Civil Appeal No. 456 of 2009, four sons of late Anand P. Mule, have instituted yet another Suit No. 15 of 2009 against the legal representatives of the original tenant seeking their eviction on the ground that the tenanted premises have been demolished and consequently the tenancy rights no longer survives. The said suit is pending adjudication.

6] There was neither any affidavit-in-rejoinder filed nor any material placed to controvert at least the statements concerning institution of fresh suits and appeals.

7] The aforesaid subsequent developments are additional reasons not to interfere with the impugned judgments and decrees.

8] Therefore, upon cumulative consideration of all the aforesaid facts and circumstances, this petition is dismissed. There shall, however, be no order as to costs.

9] It is, however, made clear that this Court has not made any observations with regard to the suits, appeals or proceedings instituted during the pendency of this petition. Accordingly, such suits, appeals or proceedings to be disposed of, in accordance with law and on their own merits.

(M.S. SONAK, J.)