

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 248 OF 2015**

Surekha Suresh Deshpande

..Applicant

Vs.

Chandrashekhar Bhavsar & Ors

..Respondents

Mr. A. S. Patil for the Applicant

CORAM : R. M. SAVANT, J.

DATE : 30th NOVEMBER, 2015

P.C.

1 The Revisionary Jurisdiction of this Court is invoked against the order dated 21-2-2015 passed by the Appellate Court i.e. the Learned Extra Joint Ad-hoc District Judge, Nashik, by which order, the Appeal came to be dismissed and resultantly the judgment and decree passed by the Trial Court dated 21-4-2012 came to be confirmed. The Trial Court on the basis of the material on record has come to a conclusion that the Plaintiff has made out a case for grant of decree on the ground of bonafide requirement. The Trial Court has also on the basis of the material on record which inter alia indicates that the building is more than 100 years and in a dilapidated condition came to a conclusion that decree on the ground that the landlord requires the premises for demolition, is required to be passed.

2 The decree passed by the Trial Court dated 21-4-2012 has been confirmed by the Lower Appellate Court on a re-appreciation of the material on record and the finding of the Trial Court both on the point of bonafide requirement as also on the point that the building being required to be vacated for demolition, has been confirmed by the Lower Appellate Court. It was sought to be contended on behalf of the Applicant that since the inception i.e. on the filing of the Suit, the case of the Plaintiff is that the building is in dilapidated condition and therefore the decree could not have been passed on the ground of the bonafide requirement of the landlord.

3 In my view, it is not possible to accept the said contention as the fact of the building being in a dilapidated condition could not impinge upon the requirement of the landlord for the premises in question. Both the Courts below as indicated above have recorded a finding of fact that a case of for grant of decree on the ground of bonadife requirement, has been made out by the Plaintiff. The issue of comparative hardship is also held in favour of the Plaintiff. Both the Courts below have also reached a conclusion that a decree is required to be passed as the premises are required for demolition in view of the fact that the building is in a dilapidated condition. In the light of the concurrent orders passed by the Courts below, no case for exercise of the Revisionary Jurisdiction of this Court is made out. The Civil Revision Application is accordingly dismissed.

4 At this stage, the Learned Counsel appearing on behalf of the Applicant prays for time to vacate the premises. In the facts and circumstances of the case, the Applicant is granted time up to 31-1-2016 to vacate the premises on the usual undertaking filed in this Court namely that the Applicant is in possession of the premises and that till 31-1-2016 she would not deal with the premises in any manner whatsoever. The said undertaking to be filed within two weeks from date.

[R.M.SAVANT, J]