

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 393 OF 2015

Pandharinath R. Darde

.. Petitioner/Applicant

vs.

Balu S. Hariyan (since deceased)

(1A Smt. Suhasini B. Hariyan & ors) and ors.

.. Respondent

Mr. A.S. Tamhane for the Applicant/Petitioner.

Mr. S.K. Sawant for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 21 JULY 2015.

P.C. :-

1] This Civil Revision Application challenges the orders dated 7 December 2009 and 18 November 2014 made by the Trial Court and Appeal Court ordering the eviction of the petitioner on the ground of default in payment of rent as well as *bona fide* and reasonable requirement of the respondent-landlord.

2] Mr. Tamhane, learned counsel for the applicant submitted that locality within which the suit premises are situated has been declared a '*slum area*' under the provisions of Maharashtra Slum Area (Improvements, Clearance and Re-development) Act, 1971 (Slum Act). Mr. Tamhane submitted that in view of such declaration, no suit for eviction of the applicant from the suit premises could have ever been instituted without obtaining consent from the competent authorities as required under Section 22 of the Slum Act.

According to Mr. Tamhane, this issue has not been addressed to or in any case, addressed to in proper perspective by the two Court and consequently the impugned judgments and orders are without jurisdiction.

3] The Trial Court as well as the Appeal Court have squarely addressed such issue. The applicant had merely relied upon a notice from the Municipal Authorities in the context of some enquiries under the Slum Act. Admittedly, the Municipal Authorities to issue any declaration as to '*slum area*' under the Slum Act. The evidence of DW-2 and DW-3, who came to be examined in support of the petitioner's case, also do not support the applicant's case that the locality concerned, has indeed been declared as the slum area. The findings of fact recorded by the two Court are, therefore, borne by the material on record. There is no perversity in the record of such finding of fact.

4] This Court, deciding in Civil Revision Application does not act as an Appellate Court. Therefore, unless the finding of fact is vitiated by perversity or is contrary to the weight of evidence on record, there is no question of any interference. The witnesses examined by the applicant themselves conceded that there is no declaration as such under the Slum Act.

5] On the aspect of default in payment and reasonable and *bona fide* requirement also, the two Courts have recorded concurrent findings of fat. There is accordingly, no reason to interfere with the same. This Civil Revision Application is, therefore, dismissed. There shall, however, be no order as to costs.

6] At this stage, Mr. Tamhane, learned counsel for the applicant, seeks for continuation of restraint upon eviction for a period of eight weeks, as the applicant intends to file a Special Leave Petition before the Hon'ble Apex Court. The request is reasonable and therefore, subject to filing of usual undertaking in this Court, within a period of one week from today, there shall be a restraint upon the execution of eviction decrees for a period of eight weeks from today. The copy of undertaking to be furnished to the learned counsel appearing for the respondents.

(M. S. SONAK, J.)

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