

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

*REVIEW PETITION NO. 12 OF 2015
IN
CIVIL REVISION APPLICATION NO. 715 OF 2014.
IN
APPEAL NO. 656 OF 2007.
in
R.A.E. & R. SUIT NO. 636 / 1089 OF 2001*

M/s.Palecha Metal Corporation.

.. Petitioner

Vs.

Grah Rachana Realtors Pvt. Ltd.

.. Respondent

Mr.Prasad Dhakephalkar, Senior Advocate a/w Mr.Rajesh Kachare
i/b Mr.Kunal Bhanage, for the Petitioner.

Mr.V.A.Thorat, Senior Advocate i/b Mr.Bhavin Rajendra Bhatia, for
the Respondent.

***CORAM: N.M.JAMDAR, J.
Wednesday 29 July, 2015
(In chamber)***

PC.:

By this Review petition, the order dated 5 May 2015 passed
in Civil Revision Application No.715 of 2014 is sought to be
reviewed.

2 By order dated 5 May 2015, the Revision application filed by
the Applicant challenging the orders passed by the Appeal bench of
Small Causes Court and the learned Judge of Small Causes Court,

by which the Review Petitioner was directed to be evicted from the suit premises, was rejected.

3 The Revision Application was argued at length and was disposed of by a detailed order, granting period of 12 weeks to the Applicant to vacate the premises. The Review petition is filed at the end of the 12 weeks on 14 July 2015. Mr.Dhakephalkar, learned Senior counsel appearing for the Applicant has urged the following ground taken in the review petition for review of the order.

“It is respectfully submitted that as per demand notice the Defendants are in arrears of rent from 1.10.1998 to 31.07.1999. The Original Plaintiffs have purchased the suit building by conveyance deed dated 24.04.1999. The Plaintiffs cannot recover the rent prior to the Plaintiffs became landlord without assignment of right to recover the arrears by the erstwhile landlord. It is not case of the Plaintiffs that erstwhile landlord assigned any right to recover arrears of rent and moreover the Plaintiffs have not produced Conveyance deed in the evidence. Therefore, if the original Plaintiffs have no right to recover arrears of the rent then there is no question of the said rent being demanded by the original Plaintiffs since they are not entitled to recover the same and there is no question of arrears of rent”.

This ground was admittedly not urged at the time of hearing of the Revision application neither it was urged in this form before the appellate Court. In a review jurisdiction, which is limited one, it is not possible to consider this submission.

4 Mr.Dhakephalkar further submitted that the erstwhile landlord was not examined in the context of unauthorised construction carried out by the Applicant. The ground of unauthorised construction was urged when the Revision application was decided and it has been dealt with. It cannot be reargued under the guise of a review. No review is permissible under the grounds urged.

5 Mr.Dhakephalkar then submitted that the ad-interim order, which was continued for a period of 12 weeks should be continued for a period of eight weeks. Considering the facts and circumstances, and the objection of Mr.Thorat, learned senior counsel for the Respondent, the ad interim order continued on 5 May 2015 shall further continue for the period of six weeks, on the same terms. This continuation is on the statement of Mr.Dhakephalkar, on instructions, that the Applicant is alone in possession and will not create any third party rights.

Review petition is rejected.

N.M.JAMDAR, J.