

Sequeira

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

CIVIL REVISION APPLICATION NO. 680 OF 2013.

Mr.Pravin Akha Chhadva

.. Applicant

Vs.

Mr.Prabhakar Shivram Mhaske

.. Respondent

Mr.Mayuresh Modgi, for the Applicant.

Mr.Mandar Patil i/b Ms Sharmila Deshmukh, for the Respondent.

CORAM: N.M.Jamdar, J.

Wednesday 15 April, 2015

Oral Order :

This is a Revision application filed by a tenant challenging the Judgment and Decree passed by the Civil Judge Junior Division Thane, and the District Judge, Thane, directing eviction of the Applicant from the premises.

2 The premises in question are room no.9 on 2nd floor of Lumbini building Naupada, Thane. The applicant was a tenant on the monthly rent of Rs.112.50/- in respect of room no.9 of the second floor of the building. The Respondent filed a Suit No.642 of 2007 in the Court of Civil Judge, J.D., Thane on the ground of bonafide requirement. The suit was decreed by the learned Civil Judge on 15 April 2011. The appeal filed by the Applicant was dismissed on 25 March 2013. Thereafter the Revision application is filed.

3 The learned counsel for the Applicant submitted that the Respondent has not made out a case of bonafide requirement. He submitted that the Respondent has not stated about the other premises in his possession.

4 The Applicant did not step in the witness box, neither examined any witness in his support. It was only orally argued that the premises in occupation of one tenant named Kamat has been let out by the Respondent but neither the Applicant stepped in witness box neither he examined any witness. If it was the case of the Applicant that the Respondent has other premises it was for him to lead evidence in that regard which he failed to do. The Respondent himself has volunteered to state that premises admeasuring 400 sq. ft. were received by him and he had clarified that both the sons were staying with him were of marriageable age and those premises were not adequate. Therefore, the Courts below took note of the fact that the Respondent was candid enough in admitting that some other premises were made available to him but they were also not sufficient. Therefore, the only argument made by the learned counsel for the Applicant cannot be accepted. Nothing stopped the Applicant from leading evidence.

5 The apathy of the Applicant continued even in this Court. The Civil Revision after filing, was not circulated. It came up on board on 30 September 2013 but none appeared for the Applicant and it was kept for dismissal. On 14 October 2013, the application

was dismissed for non-prosecution, as none appeared even though called out twice. Thereafter it was restored. On 16 March 2015, none was present and it was adjourned. Today also, the learned counsel for the Applicant initially asked for time and thereafter addressed the Court on merits. The learned counsel for the Respondent has pointed out that the Respondent has also executed the decree and has obtained possession of the premises.

6 Apart from there being no error in the concurrent finding of both the Courts, the Applicant himself has shown total apathy in prosecuting this litigation.

7 The Civil Revision application therefore cannot be entertained and is rejected.

(N.M.Jamdar, J.)