

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (ST.) NO. 23106 OF 2015
IN
WRIT PETITION NO. 9260 OF 2014

Ashish S. Bumb

.. Petitioner

vs.

Madhukar M. Galande & ors.

.. Respondents

Mr. R. N. Sanghavi for the Petitioner.

CORAM : M. S. SONAK, J.

DATE : 02 SEPTEMBER 2015.

P.C. :-

1] This Review Petition is nothing but an appeal in disguise. Further, even the submissions, which were not made at the time when Writ Petition No. 9260 of 2014 was disposed of, are attempted to be made at the stage of consideration of this review Petition. Neither is there any error apparent on face of record nor is there any other ground made out to exercise review jurisdiction.

2] The learned counsel for the petitioner made a statement that the aspect of comparative hardship is not at all considered by the two Courts which have made decrees of eviction by recording concurrent findings of fact. The learned counsel further submitted that the proviso to Section 16(1)(b) of Maharashtra Rent Control Act, 1999 (Rent Act) has not been considered. Reliance was also placed

from the decision in case of *Vishwanath P. Jaiswal vs. Satya N. Sharma – 2014 STPL (Web) 823 SC*. The learned counsel further raised a ground that the rent was alleged accepted by the landlord after the institution of proceedings and that the Courts have not adverted to the issue of partial eviction. The last two submissions do not appear to have been raised either before the Trial Court or Appeal Court or for that matter before this Court when Writ Petition No. 9260 OF 2014 was decided. In any case, even such contentions bear no merit particularly, at the stage of exercising review jurisdiction.

3] The aspect of hardship as well as proviso to Section 16(1)(b) of the Rent Act have been duly considered. In this regard, reference can be made to paragraphs 9, and 10 of the judgment and order dated 10 August 2015. Similarly, the aspect of comparative hardship has been dealt with by the two Courts and this aspect has also been considered in paragraphs 11 and 12 of the judgment and order dated 10 August 2015. There is no factual foundation in the submission now made that some rents were accepted by the landlord after institution of the proceedings for eviction. In any case, acceptance of rents without prejudice during the pendency of

proceedings, does not extinguish the accrued cause of action, particularly in the context of ground on which eviction was applied for.

4] Accordingly, there is no merit in this Review Petition and same is dismissed.

(M. S. SONAK, J.)

CERTIFICATE

“I certify that this Order uploaded is a true
and correct copy of original signed Order.”