

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

WRIT PETITION NO.1893 OF 2016

Mr. Mahesh Ramjilal Khandelwal ..Petitioner.

Vs

Shri Pravin Jaywant Kute .. Respondent

Mr. D.M.Gupte , Advocate for Petitioner.

Mr. Himanshu Kode, Advocate for Respondent no.1.

CORAM : R.G.KETKAR,J.

DATE : 28/07/2016

PC:

1. Heard Mr. D.M.Gupte, learned counsel for the petitioner and Mr. Himanshu Kode, learned counsel for the respondent at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and decree dated 1.4.2015 passed by the learned 6th Addl. Judge, Small Causes Court Pune in Civil Suit No.496 of 2012 as also the Judgment and decree dated 23.11.2015 passed by the learned Ad-hoc District Judge-3 Pune in Civil Appeal No.533 of 2015. By these orders, the Courts below have decreed the suit instituted by the respondent, hereinafter referred to as plaintiff', under section 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for Short 'Act').
3. Learned counsel for the parties were heard at length on 21.7.2016. At the request of Mr. Gupte, the matter was adjourned to 28.7.2016 so as to enable Mr. Gupte to obtain instructions. After arguing the petition for quite some time, Mr. Gupte

sought time so as to enable him to take instructions as to whether the petitioner is not ready to press this petition, if reasonable time to vacate the suit premises is given. Upon taking instructions, Mr Gupte states that if the petitioner is given time of three years to vacate the suit premises, he will not press this petition. Mr. Kode opposes to grant three years time to vacate on the ground that the Courts below have decreed the suit under section 16(1)(g) of the Act. Having regard to family members in the family of the petitioner, at the highest six months time to vacate the suit premises be given. He, however, left it to the court.

4. In view thereof, as suggested to Mr Gupte that the period of one year to vacate the suit premises would be reasonable in the facts and circumstances of the case. Mr. Gupte accepted this suggestion and submitted that the petitioner may be given one year time to vacate the suit premises. He states that the petitioner is in possession of the suit premises and nobody else is in possession. The petitioner has neither created third party interest nor parted with possession and the petitioner will hereafter neither create third party interest nor part with possession.

5. The petitioner and all the adult family members residing in the suit premises will give usual undertaking in this Court

within two weeks from today with advance copy to other side, incorporating therein:

- (i) that they are in possession of the suit premises and nobody else is in possession;
- (ii) that they have neither created any third party interest nor parted with possession;
- (iii) that they will hereafter neither create third party interests nor part with possession;
- (iv) that they will pay arrears of rent, if any, within 2 weeks from today;
- (v) that they will hand over vacant and peaceful possession of the suit premises on or before 31.7.2017 to the respondent.

6. In view thereof, the petition is disposed of as not pressed in the following terms;

- (i) Tenancy of the petitioner stands terminated and the impugned orders passed by the Courts below are maintained.
- (ii) Subject to the petitioner filing undertaking in the aforesaid terms within two weeks from today with advance copy to other side, the eviction decree shall not be executed till 31.7.2017.
- (iii) The petitioner shall hand over vacant and peaceful possession of the suit premises to the respondents on or before 31.7.2017.

(iv) List the Petition for reporting compliance after three weeks.

(R.G.KETKAR, J.)