

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

CIVIL REVISION APPLICATION NO.215 OF 2014

Rashid Khodadad Irani : Applicant.
Versus
Aspandiar Rashid Irani : Respondent.

Mr. R D Soni i/by Trupti J Gohil for the Applicant.
Mr. D S Mhaispurkar for the Respondent.

CORAM : R. M. SAVANT, J.
DATE : 11th February 2016

P.C.

1 There is a concurrent finding recorded by the Courts below as regards the entitlement of the Applicant original Plaintiff to the declaration of tenancy. Both the Courts below on the basis of the material on record have come to the conclusion that there is no material on record to show that the Plaintiff satisfied the essential attributes of tenancy, by way of exclusive possession or by way of payment of rent. Both the Courts below have adverted to the factum of the suit filed by the Respondent against the mother of the Plaintiff one Banoo Irani being Short Cause Suit No.5355 of 1994 in which suit a statement came to be made on behalf of the said Banoo Irani that she has no right title and interest in the suit premises as the same is vested in her son. The Appellate Bench of the Small Causes Court has also taken into consideration the fact that the suit filed against the Applicant herein by the Respondent herein being S C Suit No.4633 of 1995 for possession though

dismissed would not impact the present proceedings. Both the Courts below have taken into consideration the documentary evidence which was produced on behalf of the Plaintiff by way of electricity bills etc. The Courts below came to a conclusion that the said documents do not further the case of the Plaintiff as the Plaintiff has not been able to substantiate his case that his parents were paying rent to the landlord or that he has any independent right in the premises.

2 In the light of the concurrent orders passed by the Courts below against the Applicant, interdiction of this Court in the revisionary jurisdiction of this Court is not warranted. The above Civil Revision Application is accordingly dismissed.

[R.M.SAVANT, J]