

Mr. Tejpal S. Ingale for Applicant.
Mr. Ramdas Shelke for Respondents.

CORAM : R. G. KETKAR, J.
DATE : SEPTEMBER 08, 2016

ORDER :

Heard Mr. Ingale, learned Counsel for applicant and Mr. Shelke, learned Counsel for respondents at length. Rule. Mr. Shelke waives service for respondents. At the request and by consent of the parties, Rule is made returnable forthwith and the Application is taken up for final hearing.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), applicant, hereinafter referred to as 'defendant' has challenged the judgment and decree dated 16.12.2015 passed by the learned District Judge-1, Sangli in Regular Civil Appeal No.167 of 2009. By that order, the learned District Judge allowed the appeal preferred by the respondents, hereinafter referred to as plaintiffs, and quashed and set aside the judgment and decree dated 18.05.2009 passed by the learned 3rd Joint Civil Judge, Junior Division, Sangli in Regular Civil Suit No.313 of 2002 and decreed the Suit instituted by the plaintiffs on the ground of reasonable and bonafide requirement as contemplated by Section 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short 'Act'). The learned District Judge directed the defendant to handover vacant and peaceful possession of premises, more

particularly described in paragraph 1 of the plaint to the plaintiff No.1 within 3 months.

3. In support of this Application, Mr. Ingale has invited my attention to the requirement pleaded in paragraph 4 of the plaint as also the evidence adduced by the plaintiffs' witness and the cross-examination. He has also taken me through the findings recorded by the learned trial Judge in relation to the ground under Section 16(1)(g) of the Act. He submitted that the learned District Judge, however, ignored the evidence on record as also the findings recorded by the learned trial Judge in respect of - (i) construction of two rooms by the plaintiffs and (ii) that one of the sons of the plaintiffs, namely, Kishor is working and residing in Konkan Region. He submitted that the appellate Court being the last fact finding Court is required to appreciate the evidence independently and record findings. He relied upon the decision of the Apex Court in the case of ***H. Siddiqui Vs. A. Ramalingam, (2011) 4 SCC 240.***

4. On the other hand, Mr. Shelke supported the impugned order. After arguing the Application for quite some time on 06.09.2016, he sought time to take instructions. He has tendered e-mail sent by the plaintiff No.1, which is taken on record and marked 'X' for identification. Mr. Shelke consents for setting aside the impugned order and restoration of appeal before the District Court. He submitted that the Suit is instituted in the year 2002 and one of the grounds of eviction is reasonable and bonafide requirement. He, therefore, submitted that after restoration of the appeal, the District Court may be directed to dispose of the appeal in a time bound manner.

5. Learned Counsel appearing for the parties assure that they will appear before the District Court on 26.09.2016 and for that purpose, no

fresh notice be issued to them.

6. In view thereof, by consent of the parties, C.R.A. is disposed of in the following terms:

- a. Impugned order dated 16.12.2015 is set aside;
- b. Regular Civil Appeal No.167 of 2009 is restored to the file of the District Court;
- c. Parties agree that they will appear before the District Court on 26.09.2016 and for that purpose, no fresh notice be issued to them;
- d. The learned District Judge is requested to dispose of the Appeal within two months from the date of appearance of the parties;
- e. All contentions of the parties on merits are expressly kept open;
- f. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

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