

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.277 OF 2016

Vasant Moreshwar Risbud (decd) through legal heirs
Shobhana Vasant Risbud and others ... Applicants
Vs.
Sharad Moreshwar Risbud (decd) through his legal
heirs Madhavi Sharad Risbud and others ... Respondents

Mr. Shriram S. Kulkarni for Applicants.
Mr. R. A. Thorat, Senior Advocate i/b. Mr. Sachin R. Pawar for Respondents
No.1(A) to 1(D).
Respondent No.3-Parasmal Dhoka @ Jain present.
Respondent No.4-Jitendra Dhoka @ Jain present.

CORAM : R. G. KETKAR, J.
DATE : 26TH OCTOBER 2016

P.C. :

Heard Mr. Kulkarni, learned Counsel for applicants,
Mr. Thorat, learned Senior Counsel for respondents No.1(A) to 1(D)
as also respondents No.3 and 4, who are present in person.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.:', applicants, hereinafter referred to as 'defendants' have challenged the judgment and decree dated 30.03.2012 passed by the learned 8th Joint Civil Judge, Senior Division, Thane in R.C.S.No.352 of 1999 as also the judgment and decree dated 25.01.2016 passed by the learned Principal District Judge, Thane in Regular Civil Appeal No.105 of 2012. By these orders, the Courts below decreed the Suit instituted by the respondents No.1(A) to 1(D), hereinafter referred to as 'plaintiffs' instituted on grounds under Sections 12 and 13(1)(e) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short

'Act'). The Suit instituted by the plaintiffs for recovery of possession of shop No.26 admeasuring about 90 sq.ft. situate on the ground floor of Siddhivinayak Shopping Centre situate in C.T.S.No.301/2, 302, 303 and 304, opposite Kopineshwar Temple, Station Road, Thane (for short 'suit premises') is decreed and the defendants are directed to handover vacant and peaceful possession of the suit premises to the plaintiffs. Courts below also held that the plaintiffs are entitled to Rs.36,484/- towards the arrears of rent, permitted increases and damages from the date of filing of the Suit with interest thereon @ 6% per annum amongst other directions.

3. Mr. Kulkarni states that if time to vacate the suit premises upto 31.10.2017 is granted, applicants will not press this Application. He has tendered undertakings of - (i) applicant No.2 – Sanjay Vasant Risbud, (ii) applicant No.3 – Sudhir Vasant Risbud, (iii) applicant No.4 – Shamala Suresh Ghanekar, (iv) applicant No.5 – Shirish Vasant Risbud and (v) applicant No.6 – Suhas Vasant Risbud. Mr. Pawar confirms that undertakings are in usual terms. In view thereof, the undertakings filed by the applicants No.2 to 6 are taken on record and marked 'X colly.' for identification.

4. Respondents No.3 and 4 have also filed undertakings, which are taken on record and marked 'Y colly.' for identification. Mr. Pawar confirms that the undertakings filed by respondents No.3 and 4 are in usual terms. The same are taken on record and marked 'Y colly.' for identification. Respondent No.4 has also tendered photocopy of PAN card, which is taken on record and marked 'Z' for identification. In addition to that, respondents No.3 and 4 have signed today's Farad in the above matter. Undertakings filed by applicants and respondents No.3 and 4 are accepted. In addition, respondents No.3 and 4 are restrained

from carrying out any additions and alterations in the suit premises.

5. In view thereof, C.R.A. is disposed of as not pressed in the following terms:

- a. time to vacate the suit premises is granted upto and inclusive of 31.10.2017 with specific understanding that no further extension of time will be sought for;
- b. respondents No.3 and 4 along with applicants will handover possession of the suit premises to respondents No.1(A) to 1(D) on or before 31.10.2017 and till such time, applicants will pay compensation @ Rs.100/- per month from 01.04.2012 till handing over possession on or before 31.10.2017 to respondents No.1(A) to 1(D) within four weeks;
- c. by consent, clauses [c] and [d] of the operative part of paragraph 2 of order dated 25.01.2016 passed by the learned Principal District Judge, Thane in Civil Appeal No.105 of 2012 shall stand deleted;
- d. respondents No.1(A) to 1(D) are permitted to withdraw Rs.9360.68/- along with accrued interest, if any, deposited by the applicants in the trial Court, unconditionally.
- e. Order accordingly.

(R. G. KETKAR, J.)

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