

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.392 OF 2016

Daut Ibrahim Solapure ... Applicant
Vs.
Nirmala Balwant Pol ... Respondent

Mr. V. B. Rajure for Applicant.
Mr. Manoj A. Patil for Respondent.

CORAM : R. G. KETKAR, J.
DATE : AUGUST 10, 2016

P.C. :

Heard Mr. Rajure, learned Counsel for applicant and Mr. Patil, learned Counsel for respondent at length.

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 06.09.2013 passed by the learned 16th Joint Civil Judge, Junior Division, Kolhapur in Regular Civil Suit No.839 of 2010 as also the judgment and decree dated 29.03.2016 passed by the learned District Judge02, Kolhapur in Regular Civil Appeal No.374 of 2013. By these orders, the Courts below decreed the Suit instituted by the respondent-original plaintiff on the ground of arrears of rent as contemplated by Section 15 of the Maharashtra Rent Control Act, 1999 (for short 'Act').

3. Mr. Rajure states that defendant is 85 years old and he has instructions not to press this Application subject to the respondent-plaintiff giving longer time to vacate the suit premises. He states that applicant alone is in possession and nobody else is in possession. Applicant has neither created third party interest nor parted with

possession. He states that within four weeks from today, applicant will file undertaking with advance copy to the other side. Mr. Patil, upon taking instructions from the plaintiff, states that plaintiff is ready and willing to give time upto 31.12.2017 for handing over possession subject to the defendant regularly paying compensation.

4. In view thereof, Application is disposed of as not pressed in the following terms:

a. The impugned orders are confirmed and the tenancy of the applicant-defendant stands terminated;

b. Applicant-defendant shall file fresh undertaking in this Court incorporating therein that,

- (i) he is in possession and nobody else is in possession;
- (ii) he has neither created third party interest nor parted with possession of the suit premises;
- (iii) he will hereafter neither create third party interest nor part with possession of the suit premises;
- (iv) he will pay compensation to the respondent-plaintiff on or before 10th day of each succeeding month/s;
- (v) he will handover peaceful and vacant possession of the suit premises to the plaintiff on or before 31.12.2017.

c. The undertaking shall be filed within four weeks from today;

d. Applicant-defendant is given time upto 31.12.2017 to handover vacant and peaceful possession of the suit premises to the plaintiff;

e. Plaintiff shall not execute the decree till 31.12.2017 so long as applicant-defendant is regularly paying compensation to him.

5. List the Application for 'reporting compliance' after 5 weeks.
6. Order accordingly.

(R. G. KETKAR, J.)

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