

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

WRIT PETITION NO.7985 OF 2016

Smt. Chandrabhaga Balkrishna Doke .. Petitioner

Vs

Smt. Leela Lalchand Lalwani .. Respondent

Mr. Nitin Deshpande for the Petitioner.

***CORAM : N.M.Jamdar, J.
Tuesday, 29 November 2016.***

P.C. :

. By this petition the Petitioner-tenant challenges the concurrent Judgment and Orders of the Small Causes Court, Pune, and District Court, Pune, whereby the Petitioner is directed to handover the possession of the suit premises on the ground that the Petitioner had defaulted in payment of rent and has not used the premises, without sufficient cause, for period of six months preceding the institution of the suit.

2. Heard the learned counsel for the Petitioner.

3. As far as the ground of default is concerned, both the Courts have rendered a finding that the Petitioner has not deposited the rent of the premises regularly till the decision of the

suit. It was the case of the Petitioner that whenever rent was paid to the Respondent-landlord, the Respondent-landlord used to issue receipts. That being the case, burden was cast upon the Petitioner to produce receipts of the rent paid. Neither the receipts were produced nor the petitioner paid the rent by way of money order or in any other form. During the proceedings of the suit also the Petitioner was not diligent in payment of rent. Both the Courts, after examining the Nazar's report, rendered a categorical finding that the Petitioner did not pay the rent and taxes and did not follow the orders of the Court.

4. As far as the ground of non-user is concerned, no documentary evidence, such as electricity bill or any licenses to carry out business, was produced on record to demonstrate that any business was carried out from the suit premises during the relevant period. Both the Courts have assessed the evidence in that regard and have come to the conclusion that the premises were not in use during the specified period.

5. In the circumstances, there is no error in the assessment of evidence by both the Courts so as to interfere with the concurrent findings of the fact . No further protection was sought. The Writ Petition is rejected.

(N.M.Jamdar, J.)