

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.550 OF 2016

Jayant Khimji Savala ... Applicant
Vs.
Dattaray Gajanan Jadhav ... Respondent

Mr. Tejpal S. Ingle a/w. Mr. Ruturaj Pradip Kumar for Applicant.
Mr. A. Y. Sakhare, Senior Advocate i/b. Mr. Sandeep S. Koregave for Respondent.

CORAM : R. G. KETKAR, J.
DATE : OCTOBER 14, 2016

P.C. :

Heard Mr. Ingle, learned Counsel for applicant and Mr. Sakhare, learned Senior Counsel for respondent at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908, applicant, hereinafter referred to as 'defendant', has challenged the judgment and decree dated 12.09.2011 passed by the learned 10th Joint Civil Judge, Junior Division, Kolhapur in Regular Civil Suit No.912 of 2006 as also the judgment and decree dated 29.08.2016 passed by the learned District Judge-4, Kolhapur in Regular Civil Appeal No.332 of 2011. By these orders, the Courts below decreed the Suit instituted by the respondent, hereinafter referred to as 'plaintiff' under Sections 15 and 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short 'Act') and directed the defendant to handover the vacant possession of two rooms admeasuring 22' x 11' in the ground floor of building situate in City Survey No.2733, 'A' Ward, Mahadwar Road, Kolhapur.

3. After arguing the Application for quite some time, Mr. Ingle, upon taking instructions from the applicant, who is present in the Court,

states that applicant will not press this Application, if reasonable time to vacate is given. He has tendered photocopy of the applicant's driving licence, which is taken on record and marked 'X' for identification. Mr. Sakhare submits that 6 months time may be given to the applicant for vacating the suit premises. Mr. Ingle assures that applicant will not seek further extension of time for vacating the suit premises and will file usual undertaking of the applicant and all adult family members residing/using the suit premises and shall serve copy in advance on the other side. Mr. Ingle seeks one week time to file undertaking.

4. In my opinion, as the applicant is not pressing the C.R.A., he deserves to be given time upto 30.06.2017 for vacating the suit premises provided he will not seek further extension of time. In view thereof, Application is disposed of as not pressed in the following terms:

- a. Defendant accepts correctness of the impugned orders and that his tenancy stands terminated;
- b. Applicant and all the adult family members residing with him will give usual undertaking on or before 24.10.2016, after giving advance copy to the other side incorporating therein that,
 - (i) they are in actual possession of the suit premises and nobody else is in possession;
 - (ii) they have so far neither created third party interest nor parted with possession of the suit premises;
 - (iii) they will hereafter neither create third party interest nor part with possession of the suit premises;
 - (iv) they will pay directly to the respondent the arrears of rent as on 31.10.2016, if any, within 2 weeks from today and will go on regularly paying the rent on or before 10th day of each succeeding month/s till handing over possession to the respondent on or before 30.06.2017;
 - (v) they will handover vacant and peaceful possession of the suit premises to the respondent on or before 30.06.2017;
 - (vi) they will not seek further extension of time for vacating the suit premises.

5. In view thereof, subject to filing undertaking in the aforesaid terms on or before 24.10.2016, the decree of eviction shall not be executed on or before 30.06.2017. List the Application for reporting compliance on 26.10.2016.

(R. G. KETKAR, J.)

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