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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.852 OF 2015
WITH
CIVIL APPLICATION NO.1823 OF 2015

Kanta D. Dhade & Ors.	...Appellants
V/s.	
Anand P. Vadavrao	...Respondent

Mr.Milind Deshpande for the Appellants.

Mr.Bushan Walimbe i/b Ms.Priyal Sarda for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 8TH JANUARY, 2016.

P.C. :-

1. By this second appeal filed by the appellants, the appellants have impugned the order passed by the learned District Judge-1, Solapur in Regular Civil Appeal No.185 of 2014, dismissing the said appeal and confirming the order and decree passed by the learned Civil Judge, Junior Judge, Solapur in the suit filed by the respondents thereby directing the appellants herein to hand over vacant possession of the suit premises to the respondent herein within three months from the date of the said order.

2. Learned counsel appearing for the appellants (original defendants) submits that since the appellants were licensees of the

respondents, the learned Civil Judge, Junior Division, Solapur had no jurisdiction to entertain, try and dispose of the civil suit filed by the respondent (original plaintiff) *inter-alia* praying for possession of the suit property and the jurisdiction exclusively vests in the competent authority.

3. The appeal is vehemently opposed by learned counsel for the respondent (original plaintiff) on the ground that in the written statement filed by the appellants to the plaint filed by the respondent, it was their own stand that they were not the licensees of the plaintiff. He submits that both the Courts have rendered a finding that there was no agreement in writing creating any license by the original plaintiff in favour of the defendants nor the defendants paid any compensation and/or license fees of any nature whatsoever to the plaintiff. He submits that the findings are concurrent findings and are not perverse and that thus no interference in the second appeal under section 100 of the Code of Civil Procedure, 1908 is permitted.

4. A perusal of the order passed by the learned trial Judge clearly indicates that the learned trial Judge has considered the documentary as well as oral evidence and has rendered various findings of fact against the appellants herein. Insofar as the issue of jurisdiction raised by the appellants before the learned trial Court as to whether the jurisdiction of the trial Court was barred in view of

section 24 of the Maharashtra Rent Control Act is concerned, the learned trial Judge has rendered a finding in negative. It is held by the learned trial Judge that admittedly the defendants had not paid any fees or charges for the said license. It is held that the provisions of section 24 of the Maharashtra Rent Control Act was thus not applicable to the facts of this case. There was no written license agreement executed between the parties.

5. The lower appellate Court in the order and judgment dated 8th September, 2015 has rendered an independent finding and held that the appellants had failed to prove that they were licensees in the suit property. Insofar as the issue of jurisdiction raised by the appellants is concerned, the lower appellate Court has dealt with that issue in detailed while deciding point nos.1 and 2. The lower appellate Court has also adverted to various judgments of this Court and has rendered a finding that since there was no license agreement in writing between the parties and the appellants not having paid any license fees to the original plaintiff, the appellants (original defendants) had failed to prove any license in respect of the suit premises.

6. Learned counsel for the appellants even at this stage before this Court is not able to demonstrate whether there was any license agreement in writing or whether any compensation was ever

paid by the appellants to the original plaintiff. In my view both the Courts below have considered all these relevant facts and have rendered a concurrent finding of fact which are not perverse and thus no interference with such concurrent finding of fact is permissible under section 100 of the Code of Civil Procedure, 1908. There is no substantial question of law arises in this second appeal. The second appeal is devoid of merits and is dismissed.

7. In view of dismissal of the second appeal, the civil application for stay does not survive and the same is also dismissed. No order as to costs.

(R.D. DHANUKA, J.)