

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 770 OF 2015**

Santosh Devidas Nikam and Anr.	Applicants
Vs	
Jaykumar Radhakishan Agrawal and Ors.	.. Respondents

Mr. S.R.Ganbavale a/w Mr. Walvekar, Advocate for Applicants.
Mr. Kishor Patil, Advocate for Respondents no.1 and 4.

**CORAM : R.G.KETKAR,J.
DATE : 14/09/2016**

PC:

1. Heard Mr. S.R.Ganbavale, learned counsel for the applicants and Mr. Kishor Patil, learned counsel for respondents no.1 and 4 at length.
2. By this Application under Section 115 of the Code of Civil Procedure, 1908, (for short, 'C.P.C'), the applicants, hereinafter referred to as 'defendants', have challenged the Judgment and decree dated 3.9.2011 passed by the learned Civil Judge, Jr. Dn, Nandgaon in Regular Civil Suit No.14 of 2005 as also the Judgment and decree dated 20.8.2015 passed by the learned District Judge-3, Malegaon in Civil Appeal No.75 of 2011. By these orders, the Courts below decreed the suit instituted by the plaintiffs under Sections 15 and 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short, 'the Act').
3. The matter was heard at length on 7.9.2016 and was kept today so as to enable Mr. Ganbavale to take instructions from

the defendants as to whether they are pressing the Application or not. Mr. Ganbavale submitted that the applicants will not press this Application if one year's time to vacate the suit premises is given to them. He states that the applicants are in possession of the suit premises and nobody else is in possession. The applicants have neither created third party interest nor parted with possession and they will hereafter neither create third party interest nor part with possession. He further assures that rent from 1.9.2016 onwards till handing over possession on or before 30.9.2017 will be paid directly to the plaintiffs on or before 10th day of succeeding month/s. Mr. Patil is agreeable to give one year's time to the defendants for handing over possession.

4. In view thereof, the applicants and all adult family members using the suit premises will give usual undertakings in this Court within four weeks from today with advance copy to other side, incorporating therein:-

- (i) that they are in possession of the suit premises and nobody else is in possession;
- (ii) that they have neither created any third party interest nor parted with possession;
- (iii) that they will hereafter neither create third party interests nor part with possession;
- (iv) that they will pay arrears of rent upto 31st August 2016, to the plaintiffs within 4 weeks from today and rent from

1.9.2016 onwards till handing over possession on or before 30.9.2017 will be paid directly to the plaintiffs on or before 10th day of succeeding month/s.

(v) that they will hand over vacant and peaceful possession of the suit premises on or before 30.9.2017 to the respondents-plaintiffs.

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

(i) Impugned orders passed by the Courts below are upheld and tenancy of the defendants stands terminated.

(ii) Subject to the defendants and all adult family members using the suit premises them filing undertakings in the aforesaid terms within four weeks from today with advance copy to other side, the eviction decree shall not be executed on or before 30.9.2017. It is made clear that if the undertakings in the aforesaid terms are not filed and arrears of rent are not paid to the plaintiffs within four weeks from today, the interim order shall stand vacated.

(iii) The applicants/defendants shall hand over vacant and peaceful possession of the suit premises to the respondents/plaintiffs on or before 30.9.2017.

(iv) List the Petition for reporting compliance after five weeks.

(R.G.KETKAR, J.)