

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 1123 OF 2014

Ashok Lokumal Vachani	...Applicant
<i>Versus</i>	
Santosh Motilal Kansara	
And others	...Respondents

....
Mr.R.S. Apte, Senior Advocate i/b. Saurabh Oka, Advocate for
the Applicant.

Mr. Girish R. Agrawal, Advocate for the Respondents.

....

CORAM : R. G. KETKAR, J.

DATE : 5th July, 2016

P.C.

1. Heard Mr. R.S. Apte, learned Senior Counsel for the
applicant and Mr. Girish Agrawal, learned Counsel for
respondents, at length.

2. By this application under Section 115 of Code of Civil
Procedure, 1908 (for short, 'C.P.C.') the applicant, hereinafter
referred to as the 'defendant' has challenged the judgment and

decree dated 26.7.2012 passed by the learned 5th Joint Civil Judge, Senior Division, Nashik in Special Civil Suit No.409/2008 (re-numbered as Regular Civil Suit No.1065/2012) as also the judgment and decree dated 2.9.2014 passed by the learned District Judge-5, Nashik in Civil Appeal No.506/2012. By these orders, the Courts below decreed the suit instituted by the respondents, hereinafter referred to as the 'plaintiffs' under Section 15 and 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short, 'Act') and directed the defendant to hand over vacant possession of house No. 1217, admeasuring 90.00 sq.mtrs. situate on plot No.33, out of Survey No.39/2/2 within Satpur Division at village Anandwali, within the municipal limits of Nashik Municipal Corporation (for short, 'suit premises').

3. After arguing the application for sometime, Mr. Apte upon taking telephonic instructions from the applicant, states that the applicant/defendant will not press this application if reasonable time to vacate the suit premises is given. He further states that defendant is in possession and nobody is in possession. The defendant has neither created third party interest nor parted with possession of the suit premises. The

defendant will hereafter neither create third party interest nor part with possession. Mr. Agrawal submitted that at the most six months time to vacate the suit premises may be granted and he left it to the Court. In view thereof, in my opinion, one year's time to vacate the suit premises if given to the defendant would be reasonable in the facts and circumstances of the present case. Hence, Civil Revision Application is disposed of as not pressed in the following terms :

- [i] The tenancy of the defendant stands terminated and the impugned orders are confirmed.
- [ii] The defendant is given one year's time i.e. upto and inclusive of 30.6.2017 subject to the defendant and all adult family members residing with him in the suit premises giving usual undertaking incorporating therein : (i) that they are in actual possession of the suit premises and nobody else is in possession; (ii) that they have so far neither created third party interest nor parted with the possession of the suit premises; (iii) that they will hereafter neither create third party interest nor part with the possession of the suit premises; (iv) that they will pay the arrears of

rent, if any to the plaintiffs within two weeks from today; and (v) that they will deliver vacant and peaceful possession of the suit premises to the plaintiffs on or before 30.6.2017.

[iii] Subject to the defendant furnishing undertaking in the aforesaid terms with advance copy to the other side, eviction decree shall not be executed on or before 30.6.2017. Undertaking shall be furnished within three weeks from today. List the application for reporting compliance after four weeks.

[iv] Civil Revision Application is disposed of in aforesaid terms. Order accordingly.

(R. G. KETKAR, J.)