

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.743 OF 2015

Pradeep Vishram Rane	...	Applicant
Vs.		
Devichand Ritkriran Mutha and another	...	Respondents

Mr. P. B. Shah for Applicant.
Mr. Nilesh M. Wable for Respondent No.2.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 25, 2016

P.C. :

Heard Mr. Shah, learned Counsel for applicant and Mr. Wable, learned Counsel for respondent No.2 at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), applicant has challenged the judgment and decree dated 29.10.2013 passed by the learned 4th Additional Judge, Small Causes Court, Pune in Regular Civil Suit No.267 of 2010 as also the judgment and decree dated 01.10.2015 passed by the learned District Judge-19, Pune in Civil Appeal No.703 of 2013. By these orders, the Courts below decreed the Suit instituted by the respondents, hereinafter referred to as plaintiffs, for recovery of possession of room admeasuring 150 sq.ft. situate on the ground floor of CRS No.282, Yerwada Gavthan, Taluka Haveli, District Pune (for short 'suit property') on the grounds of bonafide requirement and arrears of rent.

3. As the Suit is decided by the Small Causes Court, Pune constituted under the provisions of the Provincial Small Cause Courts Act, 1887 as also in view of Section 7 of C.P.C., Section 115 is not applicable. Hence, leave to convert C.R.A. into Writ Petition is granted.

Amendment shall be carried out on or before 29.01.2016.

4. After arguing the application for quite some time, Mr. Shah, upon taking instructions from the son of the applicant Mr. Vikram Pradeep Rane, states that applicant will not press this application, if time to vacate suit property by 31.12.2016 is given. He further states that applicant and all the adult family members will give undertaking within 1 week from today incorporating therein that,

a. they are in possession and nobody else is in possession of the suit property;

b. so far they have not created third party interest and that they will hereafter neither create third party interest nor part with possession of the suit property;

c. they will pay compensation @ Rs.2,000/- per month from December 2015 till handing over possession namely, on or before 31.12.2016;

d. applicant accepts that his tenancy is terminated.

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

a. applicant shall file undertaking in the aforesaid terms within two weeks from today and will serve copy in advance on the other side;

b. respondents are permitted to withdraw the amount deposited by the applicant towards compensation of November 2015 unconditionally and applicant shall directly pay amount of compensation from December 2015 to the respondents.

6. List the Application for 'compliance' on 08.02.2016.

(R. G. KETKAR, J.)