

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

***SECOND APPEAL NO. 68 OF 2012
With
CIVIL APPLICATION NO. 92 OF 2012***

Ananda Tukaram Chorge
(Since deceased by his heirs)
1A]. Parubai Ananda Chorge
(deceased by her heirs the below-
named Applicants)

Laxman Tukaram Chorge & ors. ... Appellants

V/s.

Suryakant Aba Chorge & ors. ... Respondents.

Mr.N.V.Bandiwadekar, for Appellants / Applicants.

Mr.Milind Deshmukh, for Respondent Nos.1 to 3.

***Coram : N.M. Jamdar, J.
Thursday, 14 July 2016.***

P.C. :-

Heard learned counsel for the parties.

2. The Appellants challenge the concurrent Judgments and Orders passed by the District Judge, Karad and Civil Judge Junior division, Karad whereby the Suit filed by Respondents has been decreed and the Appeal filed by the Appellants is dismissed.

3. The Suit was filed by the Respondents for eviction of the Appellants from the suit premises. It was the case of the Respondents – Plaintiffs that the Appellants, family members were permitted to stay. They had agreed, as part of good gesture to pay some amount, which also they did not pay. Both the Courts accepted the case of the Respondents - Plaintiffs and accordingly directed the Appellants to hand over vacant possession of the suit premises.

4. The learned counsel for the Appellants submitted that, since in the plaint itself, the Respondents - Plaintiffs have referred to the payment of amount by the Appellants, it has to be construed as a rent and therefore relationship of landlord and tenant would arise, for which notice of termination is required.

5. I have considered the submission. Firstly, what is pleaded by the Respondents – Plaintiffs is not payment of rent, but an amount which the Appellants agreed to pay as a gesture for permitting them, as family members, to occupy the premises. No relationship of landlord and tenant would arise in such circumstances. The submission that notice needs to be issued is not pursued in the first appeal, and therefore was abandoned.

6. No other argument was advanced. In the circumstances, no fault can be found in the concurrent findings of both the Courts. No

substantial question of law arises. Second Appeal is dismissed. Civil Application stands disposed of.

(N.M. Jamdar, J.)