

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL (ST.) NO.35125 OF 2017
WITH
CIVIL APPLICATION NO.14347 OF 2017**

Smt. Asha W/o Rajendra More,
Age-47 years, Occu. Maid Servant,
R/o House No.2-4-8, Sinhgarh Colony,
N-6, CIDCO, Aurangabad

..APPELLANT

VERSUS

1. Baliram S/o Sambhaji Mule,
Age : 50 years, Occu. Private Service,
R/o P-3-3/5, Vitthal Nagar, N-2,
CIDCO, Aurangabad

2. The Administrator, CIDCO,
Jalna Road, Aurangabad

..RESPONDENTS

Mr R.V. Gore, Advocate for appellant;
Mr R.K. Khandelwal, Advocate for respondent no.1

CORAM : NITIN W. SAMBRE, J.

DATE : 29th November, 2017

ORAL ORDER:

Heard Mr Gore, learned Counsel appearing on behalf of appellant-
original defendant no.1.

2. On merits, Mr Gore insisted to frame a substantial question of law,
as to whether the judgment and decree passed by the Trial Court is without
jurisdiction, as the suit was not entertained under the provisions of the
Maharashtra Rent Control Act.

3. Appreciated aforesaid submissions.

(2)

4. Both the Courts below have concurrently held that the present appellant-defendant no.1 was a gratuitous occupant of the suit premises and though a plea was raised by the appellant of denying landlord-tenant relationship, the appellant though was given an opportunity has failed to establish the same.

5. In view of the fact that the appellant was a gratuitous occupant of the suit premises and there are concurrent findings recorded by the Courts below, no interference is warranted. Second Appeal lacks merit and stands dismissed.

6. At this stage, Mr Gore, learned Counsel appearing on behalf of appellant and the appellant who is personally present in the Court, have tendered an undertaking on affidavit that the appellant shall vacate suit premises by 29th May, 2018, having accepted the judgments of all the three Courts.

7. In view of the fact that admittedly the appellant is occupying the suit premises for last nine years. The undertaking that she shall voluntarily vacate the suit premises by 29th May, 2018 and shall hand over vacant possession thereof to the respondent no.1, without damaging the property, is accepted.

(3)

8. The execution of the warrant of possession shall remain stayed till 28th May, 2018 only.

9. The appellant shall continue to occupy the suit premises upto 28th May, 2018 and shall vacate by 29th May, 2018. She shall not cause any damage to the suit premises.

10. In view of aforesaid, Civil Application No.14347 of 2017 does not survive and stands disposed of accordingly.

(NITIN W. SAMBRE, J.)

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