

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 224 OF 2017

Gopalkrishna Chandra Shekhran	...Applicant
<i>Versus</i>	
Tahira Mohammad Ibrahim	...Respondent

Mr SP Shetye, for the Applicant.

CORAM: G.S. PATEL, J
DATED: 6th November 2017

PC:-

1. The Applicant in the civil revision application says that he is the owner and the landlord of a structure known as Gopal Mestry Chawl, Dharavi and that the Respondent is a tenant. He challenges an order of the appellate court allowing the appeal filed by Respondents. The appeal was filed against an eviction decree in the Applicant's RAE & R Suit No. 824/1512 of 1998.

2. In this Civil Revision Application, I will note that neither side seems to have been completely consistent or impeccable in the evidence, but this surely more disadvantages the Plaintiff seeking a decree than the tenant resisting it.

3. The first problem with the Plaintiff's case is that he is unable to demonstrate unequivocally that he is indeed the owner of or has some title as landlord to the property in question. The appellate court noted that the plaint does not describe the property accurately. The property extract was produced at Exhibit 25 for the CTS number claimed, CTS No. 316 and in this neither the name of the Plaintiff or his father as landlord featured at any time. This is material because the Plaintiff landlord's case was that his father was the owner of the property during his lifetime and on his death in November 1995, the Plaintiff stepped into his shoes. As the Plaintiff-Applicant cannot show that his father was the owner, there are simply no shoes into which he can step. What the Plaintiff did was to produce a record of the Municipal Corporation which showed that since 1995 he attempted to obtain a mutation of this property in his name. In this he was entirely unsuccessful.

4. Even on the question of the landlord-tenant relationship, the Plaintiff's evidence leaves much to be desired. The Plaintiff claimed that his book or set of rent counterfoils was stolen and much is made of this but what the Appeal Court found was that even these counterfoils and rent receipts were inconsistent and not credible. There is no consistency about the rent itself. Exhibit 44 was a receipt issued on 10th October 1995, Sr. No. 162, but it seems to pertain to rent for the months of December 1995 and January 1996. There was a serious question about the reliability and genuineness of these rent receipts. For her part, the tenant claimed to have lost her pitch holder card but that should make very little difference. The Appellate Court found that landlord had adduced not a shred of evidence about the year in which the tenancy commenced, whether

it was by an oral or written agreement, or what the terms of that tenancy were. He was not also able to show any documentary evidence of his actually owning the property in question. This raises a perhaps more fundamental issue about jurisdiction of the court itself and coupled with the lack of any cogent evidence about the tenancy is fatal to the landlord's case.

5. Having regard to the findings of the appellate court, which are closely reasoned and cover all aspects of the matter, I see no cause for interference and certainly none that falls within the frame of Section 115 of the Code of Civil Procedure, 1908.

6. The civil revision application is rejected. There will be no order as to costs.

(G. S. PATEL, J)