

and Defendant No.3 is the son of the Plaintiff. The suit premises is a part of shop No.A-5, Shivram Sadam, Ground Floor Opp: New Passport Office, Prabhadevi, Mumbai 400 025 having an area admeasuring 5'x4' in north east side of shop No.A-5 (hereinafter referred to as the "**suit premises**"). According to the Plaintiff, he is the monthly tenant of shop No.A-5 which is admeasuring approximately 171 sq.ft. and is in exclusive use and occupation of the same. He claims to be an eminent artist who prepares various portraits, paintings and gift articles and sells the same from the suit premises.

3 Since, all the Defendants were close relatives of the Plaintiff and were unemployed at the material time, they approached the Plaintiff in December 2009 requesting him to allow them to use the suit premises to carry on their business of a "**Quick Photo Shop**". Considering their need, the Plaintiff allowed the Defendants to carry on their business in the suit premises admeasuring approximately 5'x4'.

4 It is the case of the Plaintiff thereafter he and the Defendants were all related and therefore the terms and

conditions of the license was decided orally and the suit premises were allowed to be used and occupied on a temporary basis and for compensation of Rs.2000/- per month. However, this amount of Rs.2000/- per month was not paid but instead the Defendants paid only a lump-sum of Rs.5000/- and assured to take care of the Plaintiff and his wife in their old age.

5 It is thereafter the case of the Plaintiff that in or around March 2010, the Defendants converted their business of **“Quick Photo Shop”** into a Passport Agency without the knowledge and consent of the Plaintiff. According to the Plaintiff, the Defendants were doing illegal and unlawful business in their premises and were causing great nuisance to the Plaintiff in his work as an artist. It is in this light that the Plaintiff was constrained to issue a notice for revocation of the license on 5 May 2010 and thereafter the eviction suit was filed.

6 After the suit was filed and evidence was led, the Trial Court heard the matter and passed its decision on 24 July, 2013 which can be found on page 37 to 51 of the paper book. The Trial Court considered all the evidence on record and after

hearing the respective parties, came to a finding that the Defendants were licensees of the suit premises; that the license had been properly revoked and that the Small Causes Court has jurisdiction to try the suit. Accordingly, the suit was decreed and Defendant Nos.1,2 and 3 were directed to handover quiet, vacant and peaceful possession of the suit premises to the Plaintiff within one month from passing of this order.

7 Being aggrieved by this order, the Defendants approached the Appellate Bench of the Small Causes Court. The Appellate Bench also, after appreciating the facts and hearing the parties as well as going through the evidence, agreed with the findings & conclusions of the Trial Court. It accordingly dismissed the appeal. Being aggrieved by these orders, the Defendants are before this Court in present Civil Revision Application.

8 Learned advocate appearing on behalf of the Defendants submitted that in the present case there was no question of there being any license for the simple reason that the Plaintiff was the father of Defendant Nos.2 and 3 who had

allotted the suit premises to them out of love and affection. This being case, he submitted that the Trial Court as well as the Appellate Court failed to appreciate these facts which went to the root of the matter as the Small Causes Court had no jurisdiction to entertain the suit itself. He, therefore, submitted that this Civil Revision Application be allowed.

9 I have carefully gone through the orders passed by the Trial Court as well as the Appellate Bench of the Small Causes Court. The Trial Court as well as the Appellate Bench have given a categorical finding that the Defendants were gratuitous licensees of the Plaintiff and were at the pleasure of the Plaintiff to occupy the same. The suit premises were granted to the Defendants to do their business purely on permissive basis was the finding. Merely because Defendant Nos.2 and 3 are the children of the Plaintiff, they do not get any unfettered right to stay and occupy the premises of the Plaintiff unconditionally. I therefore find, on carefully perusing both the orders, that not only are the findings fully justified but they can hardly be termed as perverse or suffering from any error apparent on the face of the record requiring my interference. I

find that the Trial Court as well as the Appellate Bench have`
given proper weight-age to the evidence as well as the
arguments canvassed before them. I, therefore, find no merit in
this Civil Revision Application and it is, accordingly, dismissed.
However, there shall be no order as to costs.

(B.P.COLABAWALLA, J.)