

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 9 OF 2016
WITH
CIVIL APPLICATION NO. 10 OF 2016

Shriram Satyadev Tiwari ... Appellant / Applicant

Versus

Sanjeev Sudhakar Karanjkar ... Respondent

Mr. Milind Sathaye for the Appellant / Applicant.
Mr. Rajesh Patil a/w. Mr. Rahul Kulkarni for the Respondent.
Mr. Sanjeev Sudhakar Karanjkar – Respondent, present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 5TH JULY, 2017
(IN CHAMBERS)

P.C.:

1. Heard the learned Advocates appearing for the parties.
2. The above Second Appeal is admitted on the following substantial questions of law :
 - i. Whether the Appellate Court in the first Appeal was justified in dismissing the Suit for specific performance and simultaneously decreeing the Counter Claim, made by Respondent / Defendant invoking rent jurisdiction against the Appellant, by specifically valuing the Counter Claim at 12 times the rent amount and by treating the Appellant as tenant in the pleading ?
 - ii. Whether in the facts of the present case, the aspect of payment of monthly

occupation charges can be connected to issue of readiness and willingness when the Respondent himself is treating the Appellant as tenant of the Suit flat ?

iii. Whether the Appellant Court in the first Appeal could have resorted to Section 53A of the Transfer of Property Act, 1882 when rent jurisdiction is invoked ?

3. The Appellant / Applicant undertakes to pay to the Respondent within a period for four weeks from today a sum of Rs.1,50,000/- being the arrears of monthly compensation payable at the rate of Rs.2,000/- per month under the Agreement for Sale dated 29th June, 2006 to the Respondent. The Appellant also undertakes to pay an amount of Rs.2,000/- per month to the Respondent from August-2017 until the above Appeal is heard and disposed off. The undertakings are accepted.

4. In the event of any default in making payments as undertaken above, liberty is granted to the Respondent to move this Court for passing appropriate orders.

5. The Appellant shall make the above payments and the Respondent shall receive the same without prejudice to the rights and contentions in the above Second Appeal.

6. The printing of paper book is dispensed with. The Appellant shall however file a private paper book containing the relevant documents and serve copy in advance on the other side within a period of six weeks from today.

7. Pending the hearing and final disposal of the above Second Appeal, the parties shall maintain status quo in respect of the Suit property as of today.

8. The hearing of the above Second Appeal is expedited.

9. The above Civil Application is accordingly disposed off.

(S.J.KATHAWALLA, J.)