

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

**CIVIL APPLICATION NO. 256 OF 2017
IN
CIVIL REVISION APPLICATION NO. 478 OF 2009**

Rose Lucia Christine Fernandes ...Applicant

IN THE MATTER BETWEEN :

Smt.Rose Lucia Christine Fernandes ...Applicant
(Org. Plaintiff)

Versus

Meilia Rebello ...Respondent
(Original Defendant)

Ms.Deepti Panda i/by S B Legal for the Applicant.

Mr.Kamlesh Lodhi for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 09th OCTOBER 2017

P.C.

1. There is no necessity to entertain this Civil Application in the present Civil Revision Application. It is pertinent to note that two Courts have declined to grant the Civil Revision applicant a decree of eviction against the tenants *inter-alia* on the ground that they have carried out permanent construction which were not authorized.

2. Any adjudication of this application, would involve adjudication of disputed questions of facts which cannot be gone into at this stage for the first time. The dismissal of the Civil Application however, will not preclude the applicant, from taking out appropriate proceedings before the appropriate forum if, the applicants tenants indeed carried out illegal and unauthorized construction. If the applicant resorts to any such remedy, the application/suit of the applicant to be considered on its own merits and in accordance with law.

3. It is made clear that this Court had not adverted to the merits of the matter and therefore all contentions of all the parties are left open.

4. The Civil Application is disposed of.

5. The Civil Revision Application is ordered to be expedited and to be placed on final hearing board as per the seniority to be accorded to the matters concerning the Senior Citizens.

(M. S. SONAK, J.)