

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

CIVIL REVISION APPLICATION (ST) NO. 19872 OF 2017

Mr. Nirmalkumar Dattussa Gangji,
Proprietor Of Hindmata Cloth Emporium ...Applicant
Versus
Mr. Gafarkha Hamidkha Pathan And Anr. ...Respondents

Mr.Surel Sunil Shah for the Applicant.

None present for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 01st SEPTEMBER 2017

P.C.

1. Heard Mr.Shah, the learned counsel for the applicant.
2. This Civil Revision Application makes exception to the judgments and decrees dated 14th October 2011 and 11th August 2014 made by the learned Trial Judge and the Appeal Judge ordering eviction of the applicant on the ground that the respondent-landlord require the suit premises for their personal and *bona fide* requirement.
3. Mr.Shah submits that there are jurisdictional errors in

the record of findings of fact by the two Courts. He submits that the respondents also have alternate premises from where they can run their business. In such circumstances, it cannot be held that the requirement of the respondent-landlords was either reasonable or *bona fide*.

4. Upon due consideration the contentions of the learned counsel for the applicant and upon perusal of the record as also the impugned judgments and decrees, I am satisfied that no case is made out warranting interference under Section 115 of the Civil Procedure Code.

5. This is a case of concurrent findings of facts. No perversity is demonstrated in the record of such findings of facts. Besides, the record indicates that the respondents-landlords have themselves suffered decree of eviction in respect of the premises from where they were running their business. The petitioners had in fact stated that the respondents-landlords can conduct their business from a shop situated in Khatik Galli. In response, the respondents had offered that the petitioners shift to this location in Khatik Galli, which were offer and the petitioners declined to accept. That apart, there is material on record which indicates that Khatik

Galli is not a very suitable location for undertaking the business for the sale of clothes. There is ample evidence on record establishing that the need of the landlords in the present case is both reasonable and *bona fide*. It is necessary to also take cognizance of the order dated 18th August 2017 made by this Court in the Civil Application No.392 of 2017, in terms of which, the attempt on the part of petitioners wife and son to resist the eviction of the impugned judgments and decrees was itself not approved. There is no case made out to warrant interference in exercise of jurisdiction under Section 115 of Civil Procedure Code.

6. In view of the aforesaid, this Revision Application is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)