

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3355 OF 1999

Deepak Vasant Bhawe	...	Petitioner
Vs.		
Anil Manohar Bhagat represented by		
Power of Attorney Holder		
Ajit Manohar Bhagat	...	Respondent

Ms Anjali Helekar for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : MAY 30, 2017

P.C. :

Heard Ms Helekar, learned Counsel for the petitioner.

2. By this Petition under Article 227 of the Constitution of India, petitioner, hereinafter referred to as 'plaintiff', has challenged the judgment and decree dated 12.02.1999 passed by the learned XI Additional District Judge, Pune in Civil Appeal No.990 of 1996. By that order, the learned District allowed the appeal preferred by the respondent, hereinafter referred to as 'defendant', and set aside the judgment and decree dated 19.08.1996 passed by the learned II Additional Small Causes Judge, Pune in Civil Suit No.317 of 1995. The learned District Judge dismissed the Suit.

3. Plaintiff has instituted Suit against the defendant for recovery of possession of tin shed admeasuring 15' x 10' situate in C.T.S. No.33/1, Uma Niwas, Karve Road, Pune (for short 'suit premises') inter alia on the grounds that defendant has committed acts contrary to provisions of Clause (O) of Section 108 of the Transfer of Property Act, 1882 (for short 'T. P. Act'; that plaintiff requires the suit premises reasonably and bonafide as contemplated by Section 13(1)(g) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short 'Act'); that

defendant has been causing nuisance and annoyance to the plaintiff and adjoining occupiers as contemplated by Section 13(1)(c) of the Act; that the defendant is not using the suit premises without reasonable cause for the purpose for which they were let out for a continuous period of six months immediately preceding the date of the Suit as contemplated by Section 13(1)(k) of the Act. By order dated 19.08.1996, the learned trial Judge decreed the Suit only under Section 13(1)(k) of the Act, namely, non-user. Aggrieved by that decision, defendant preferred appeal. By the impugned order, the learned District Judge has allowed the appeal and dismissed the Suit.

4. Ms Helekar submitted that petitioner is present in the Court. She has tendered photocopy of his Aadhar card, which is taken on record and marked 'X' for identification. She states that the tin shed is not in existence as of today and that defendant is also not in possession. She further states that petitioner-plaintiff has obtained possession. She has tendered photographs showing the status as of today, which are taken on record and marked 'Y Colly' for identification. She further submits that in view of the subsequent developments, nothing survives in the Petition and the same is rendered infructuous.

5. None appears for the respondent. No leave note is also filed by the Advocate appearing for the respondent. As the premises in respect of which Suit for eviction was instituted does not exist and that the petitioner has obtained possession, nothing survives for consideration in this Petition. Petition is rendered infructuous and is accordingly disposed of. Rule is discharged with no order as to costs.

(R. G. KETKAR, J.)