

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 635 OF 2016

Prabhakar Damu Bhamare	...Applicant
<i>Versus</i>	
Indubai Dhudaku Sonaje	...Respondent

Mr Milind M Sathaye, *for the Applicant.*
Mr SR Ganbavale, *for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 14th November 2017

PC:-

1. The Civil Revision Applicant is the original Defendant. He suffered an ejectment decree on the ground of default in payment of rent. He carried the matter in Appeal. At the time of that decree and that at the time when Prabhakar filed his Appeal the Respondent landlord Indubai was the owner of the property. She also filed cross-objections in the Appeal and even at that time she was the owner.

2. Mr Sathaye for the Applicant submits that at the time when the Appellate Court passed its order of 23rd June 2016, and which is impugned in this Civil Revision Application, Indubai was no longer the owner and had divested her title to the premises. Therefore, he says, the decree is incapable of execution.

3. The submission is difficult to accept. The Appellate decree was on the basis of arrears of rent. The ground of *bona fide* requirement was rejected, and there was no decree on that ground.

4. Had the suit been decreed on the ground of *bona fide* requirement, very possibly Mr Sathaye was correct and possession in execution could not have been taken by a transferee of the decree-holder; for the finding of *bona fide* requirement would have been specific to the original transferor-landlord. A decree on the basis of arrears of rent stands on a different footing. Mr Sathaye submits that the sale by Indubai was not disclosed to the Appeal Court. That makes little difference.

5. There is no reason to interfere with the impugned order. It is sufficient to say, while rejecting this Civil Revision Application, that all of Prabhakar's contentions in regard to the executability of the decree of ejectment on the ground of arrears of rent are specifically kept open and may be taken at any stage in execution proceedings initiated by Indubai's transferee.

6. The Civil Revision Application is disposed of in these terms. No costs. All contentions of both sides are expressly kept open.

(G. S. PATEL, J.)