

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

CIVIL REVISION APPLICATION NO.913 OF 2013

Satyabhan Rajabali Singh .. Petitioner/Applicant
Vs.

Shashikant Dharamshi Shah & Ors. .. Respondents

...
Mr.R.R. Sharma for the Applicant.

Mr.B.R. Dalal for Respondent No.1.

...
CORAM : M.S. SONAK, J.

DATE : 24 AUGUST 2017.

P.C. :

1. Heard Mr. R.R. Sharma for the petitioner and Mr. B.R. Dalal for the Respondent No.1.

2. The petitioner challenges the judgment and decree dated 4th May, 2006 and 23rd September, 2013 made by the Trial Court and the Appellate Court respectively dismissing the petitioner's suit seeking declaration of tenancy in respect of the suit premises.

3. Apart from writing as regards receipt of Rs.1000/- in the year 1977, there is no documentary evidence produced on record to establish tenancy. Even the writing does not make any reference to any right of tenancy. There is no evidence as regards payment of rent. Two courts concurrently held that the petitioner has failed to make out a

case of tenancy and on such grounds denied the declaration as prayed for.

4. Mr. Sharma, learned counsel for the petitioner submits that the son of the respondent in his deposition, admitted that the predecessor in title of the petitioner had entered in possession of the suit premises by an agreement in the year on 19th November, 1977. Mr. Sharma submits all of these years, neither the predecessor in title of the respondents nor the respondents have taken any steps as regards possession of the suit premises by the petitioner. Mr. Sharma submits that from this it is clear that the petitioner has established a case of the tenancy in respect of the suit premises.

5. It is not possible to accept Mr. Sharma's submission. The petitioner who is plaintiff in the trial court is required to stand or fall on his own feet, there is no question of taking any advantage of any alleged weakness in the case of the defendant. In any case, the mere circumstance that no action was taken, cannot, lead to any inference that the petitioner or the predecessor-in-title was infact the tenant of the suit premises.

6. The extra ordinary jurisdiction under Article 227 of the

Constitution, especially in matters of interference with concurrent findings of fact cannot be exercised unless it is demonstrated that there is some perversity in the record of findings of fact. Since, no such perversity is demonstrated it is not possible to interfere with the impugned orders in the exercise of extra ordinary jurisdiction under Article 227 of the Constitution of India.

7. This civil revision application is accordingly dismissed.
There shall be no order as to cost.

(M.S. SONAK, J.)