

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD***

CIVIL REVISION APPLICATION NO. 126 OF 2018

Rambhau s/o Namdeo Gajare
(deceased through LRs)

... Applicant

Versus

Khatija Nafis w/o Habibuddin
(deceased through Lrs) & others

... Respondents

Mr. M.G. Deokate , Advocate for the Applicant.

Mr. Rajendra Deshmukh, Advocate for Respondents no. 2 and 3.

Coram : N.M. Jamdar, J.

Date : 26 November 2018.

Oral Order :

1. By this revision application, the applicant challenges the judgment and order passed by learned District Judge, Jalna and learned Civil Judge, Junior Division, Jalna, decreeing the suit filed by respondents and directing the applicant to handover vacant possession of the suit premises.

2. Respondent-landlord filed a suit seeking to recover the possession of the suit premises, which are residential premises from one Rambhau Namdeo Gajare, who was the tenant of the suit premises. The learned Civil Judge held that the tenant was in default in payment of arrears of rent, the Respondent-landlord bonafide required the premises for personal use and occupation and that hardship would be to the respondent-landlord if the decree is refused.

3. When an appeal was filed by the applicant i.e. Rajendra Bankar, respondent-landlord objected his locus contending that he has no concern with the original tenant and none of the heirs of the original tenant have challenged the decree. The learned District Judge held that the applicant has no locus, he is a complete stranger to the property and that, decree on the ground of bonafide requirement was just and proper.

4. As regards the bonafide requirement of the respondent-landlord is concerned, the learned District Judge has considered that the respondent-landlord has no residential premises in the vicinity and that benafide requirement is established.

5. As regards locus of the applicant, my attention is drawn to

the cross examination of the original tenant wherein it was suggested to him that the applicant is occupying the suit premises. This suggestion was categorically denied by the original tenant. Infact, the original tenant volunteered to state that the applicant stays in the house of one Osman and he has a hotel next door. In view of this categorical assertion of the original tenant, the finding recorded by the learned District Judge that the applicant has no locus to prosecute the appeal, cannot be termed as perverse. It is also informed that the applicant has filed objection to execution of the decree which is also dismissed and continued in appeal.

4. In these circumstances, there is no error of jurisdiction committed by the learned District Judge in dismissing the appeal. Civil Revision Application is accordingly dismissed.

N.M. Jamdar, J.