

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

SECOND APPEAL NO. 633 OF 2017
WITH
CIVIL APPLICATION NO.12420 OF 2017
IN SA/633/2017

SMT. BABAIBAI BHIKAJI LONDHE
VERSUS
SATISH AMOLAKCHAND DUDHEDIYA AND ORS

...
Advocate for the Appellant : Shri Naseem R. Shaikh.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th January, 2018

Per Court:

1 The Appellant is aggrieved by the judgment of the Trial Court dated 30.06.2012 delivered in Regular Civil Suit No.173/2000 and by the judgment dated 16.08.2017 delivered by the first Appellate Court in Regular Civil Appeal No.103/2012.

2 The contention of the Appellant is that she is a married lady, who has later on become a widow. She is the daughter of the original tenant Bhimaji Mahadu Londhe, who died in 1974. Bhimaji was in possession of the suit premises since 1946. The suit premises are said to be 3 and 1/2 metres by 3 and 1/2 metres (11.48 x 11.48 feet).

3 It is contended by the Appellant that she has been residing in

the tenanted premises during the lifetime of Bhimaji and even thereafter, along with her husband. It is, therefore, tried to be canvassed that the Appellant along with her husband and two daughters were living with father Bhimaji and mother Tanhabai all together in the said suit premises.

4 Navneet Parikh was the original owner of the suit premises. Respondent Nos.1 to 5 herein have purchased the suit premises from Navneet Parikh in 1976 and have, therefore, become the landlords.

5 My attention is drawn to the 12 grounds set out in the memo of the Second Appeal, which are said to be the substantial questions of law involved in these proceedings.

6 I find that the Trial Court, by its judgment dated 30.06.2012, has decreed the suit filed by the Plaintiffs Landlords and has directed the Appellant to vacate the possession of the suit premises. By the impugned judgment of the first Appellate Court, the appeal filed by the present Appellant has been dismissed and it is concluded that the judgment of the Trial Court does not appear to be perverse or erroneous and the Appellant has failed to indicate as to how she has become the tenant in the suit property.

7 In order to assess as to when and how did the Appellant enter in the tenanted portion, I called upon the learned Advocate for the Appellant to submit on the basis of the record. It is stated that there is neither any pleading nor evidence on record to indicate that the Appellant

was staying with her parents in the suit premises even after her marriage. The Appellant has not led any evidence to indicate as to whether, after her marriage, she has proceeded to live with her husband in the suit premises with her parents. There is no evidence to indicate as to whether, the Appellant along with her husband cohabited in the tenanted room, which was also occupied by her father Bhimaji and mother Tanhabai. There is no evidence to indicate when was the Appellant rendered a widow.

8 Considering the above, I have perused the impugned judgment of the first Appellate Court, which has revisited the records and proceedings in the suit. It is noted that there were no details in oral and documentary form before the Trial Court to indicate as to how the Appellant has become the tenant. Except a bare contention that her father was the tenant of Navneet Parikh and she was also in continued possession and occupation of the tenanted premises, there was no evidence at all on record to support her contentions.

9 Considering the pleadings set out in the appeal, the fact situation as above and the answers that are offered by the learned Advocate for the Appellant on the basis of the record available, I do not find that any substantial question of law has been raised in this Second Appeal. The impugned judgments can neither be termed as being perverse nor erroneous.

10 The Second Appeal is, therefore, devoid of merit and stands

dismissed.

11 The pending Civil Application does not survive and stands
disposed of.

kps

(RAVINDRA V. GHUGE, J.)