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

**SECOND APPEAL NO.296 OF 2018
WITH
CIVIL APPLICATION NO.649 OF 2018
IN
SECOND APPEAL NO.296 OF 2018.**

Bharat Petroleum Corporation Ltd Appellant.
V/s.
Bhalchandra Madhukar Kulkarni
and ors ... Respondents

Mr. Shivprasad R. Page, for the appellant.
Mr. P. S. Dani, Senior Advocate I/by Vishwajeet V
Mohite a/w Mr. VKikram Kulkarni, i/by Ergo Juris,
for respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J

DATE : 2nd JULY, 2018.

P.C. :

1] Heard learned counsel for the appellant and learned
Senior Advocate for the respondents.

2] This Second Appeal is directed against the judgment and
decree dated 14.11.2017, passed by District Judge -3, Karad, thereby
dismissing the appeal which was preferred against the judgment and
decree dated 18.7.2016, passed by the 8th Joint Civil Judge Junior
Division, Karad, in R.C.S.No.185 of 2015.

3] The said suit was filed by the respondent No.1 seeking
possession of the suit premises from present appellant and original

defendant Nos 2 & 3, on the ground that the suit premises were let out by way of lease deed dated 31.5.1973. The lease commenced from 1st November, 1972 and was valid for 20 years, therefrom. Thereafter, lease was not renewed. The appellant, however, continued to be in possession as tenant holding over the same. Hence, the respondent-plaintiff issued notice dated 30.01.2015, for terminating the tenancy claiming possession, and thereafter filed suit for possession.

4] The appellant original defendant No.1, however, did not appear before the trial Court and as a result thereof, suit proceeded ex parte.

5] Respondent Nos. 2 and 3 alone appeared in the trial Court and contested the suit. However, the trial Court after recording evidence of the parties came to the conclusion that the notice issued for terminating tenancy was legal, valid and in view thereof, respondent No.1 plaintiff has become entitled to get possession of the suit premises.

6] The said judgment and decree, is confirmed by the Appellate Court, by holding that respondent No.1 has followed due process of law; the appellant was not diligent in proceeding with the suit, contesting the same and in view thereof, there was no substance, the appeal is devoid of merits and therefore, dismissed the same.

7] Learned counsel for the appellant submits that though the

trial Court has decreed the suit, respondent Nos. 2 & 3 being agents of respondent No.1 had no authority to hand over the possession of the suit property to respondent No.1. The respondent Nos. 2 and 3 had no independent right as they claim through respondent No.1. It is submitted that the appellant has also filed an application before the first Appellate Court stating that the manner in which possession was taken by respondent No.1, from respondent Nos. 2 and 3 is not correct and the said possession be restored to the appellant. The said application was decided by the appellate Court in its judgment and it was held that defendant Nos. 2 and 3 were in actual possession of the suit premises and the decree was passed against them, there was nothing wrong if they had handed over possession of the suit property to respondent No.1.

8] In my considered opinion, there is absolutely no illegality pointed out in the judgment and decree passed by the trial Court and confirmed by the Appellate Court.

9] The appeal holds no merit and hence stands dismissed.

10] In view of dismissal of the appeal, Civil Application No.649 of 2018 becomes infructuous and the same is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]