

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL REVISION APPLICATION NO.151 OF 2017**

Sachin Vasant Bhat] Applicant

Vs.

Sashikant Madhav Samangadkar & Ors.] Respondents

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Mr. S.R. Ganbavale, for Applicant.

Mr. Y.P. Narvankar a/w Mr. Vasant R. Kadam, for Respondent No.1.

.....

CORAM : R.G. KETKAR, J.

DATE : 10TH APRIL, 2018.

P.C.

Heard Mr. Ganbavale, learned Counsel for the applicant and Mr. Narvankar, learned Counsel for respondent No.1/plaintiff.

2. By this application under section 115 of the Code of Civil Procedure, 1908, the applicant, hereinafter referred to as “defendant No.1-A” has challenged the judgment and decree dated 22nd November, 2014 passed by the 5th Joint Civil Judge, Junior Division, Kolhapur in Regular Civil Suit No.596 of 2007 as also the judgment and decree dated 13th October, 2016 passed by the District Judge at Kolhapur in Regular Civil Appeal No.1 of 2015. By these orders, the Courts below decreed the suit instituted by respondent No.1, hereinafter referred to as “plaintiff” under Section 16 (1) (g) of the Maharashtra Rent Control Act, 1999 (for short “Act”) and directed defendant No.1-A to hand over vacant and peaceful possession of Shop admeasuring 108

square feet situate on the ground floor of the building standing on C.T.S. No.159, 'B' Ward, Mahadwar Road, Kolhapur, (for short "suit premises") more particularly described in paragraph 1 of the plaint.

3. The matter was heard at length on 9th April, 2018 and was kept today for passing orders as also to enable Mr. Ganbavale to take instructions from the applicant in the event of applicant not pressing this Application, he will be given reasonable time up to 31st December, 2018 for vacating the suit premises. Upon telephonic instructions from defendant No.1-A, Mr. Ganbavale states that defendant No.1-A accepts correctness of the impugned orders and is not pressing Civil Revision Application. He submitted that defendant No.1-A be given time up to 31st December, 2018 for vacating and handing over vacant and peaceful possession of the suit premises to the plaintiff.

4. Mr. Narvankar, upon taking instructions from the plaintiff gives no objection for disposing of the application as suggested by Mr. Ganbavale.

5. In view thereof, C.R.A is disposed of as not pressed in following terms:

[1] Defendant No.1-A accepts correctness of the orders dated 22nd November, 2014 passed by the 5th Joint Civil Judge, Junior Division, Kolhapur in Regular Civil Suit No.596 of 2007 as also the judgment and decree dated 13th October, 2016 passed by the District Judge at Kolhapur in Regular Civil Appeal No.1 of 2015 and that his tenancy stands terminated.

[2] Defendant No.1-A is given time up to 31st December, 2018 for vacating the suit premises and handing over vacant and peaceful possession of the suit premises to the plaintiff.

[3] Defendant No.1-A and all adult family members shall file usual undertaking incorporating therein;

[a] they are in possession and nobody else is in possession of the suit premises;

[b] they have neither created third party interests nor parted with possession of the suit premises;

[c] they will hereafter neither create third party interests nor part with possession of the suit premises;

[d] within two weeks from today, the defendant No.1-A will pay arrears of rent, if any, to the plaintiff.

[e] Defendant No.1-A will go on paying compensation from 1st April, 2018 on or before 10th day of each succeeding month till handing over possession or till 31st December, 2018 which ever is earlier.

within two weeks from today with advance copy to the other side.

6. In view thereof, C.R.A is disposed of as not pressed. List the Civil Revision Application for reporting compliance on 2nd May, 2018.

[R.G. KETKAR, J.]