

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.499 OF 2017

Zaheeruddin Mazharuddin Ansari ... Applicant
Vs.
Sushil Ramchandra Dalvi and others ... Respondents

Mr. G. V. Kalro i/b. Mr. G. A. Lobo for Applicant.
Mr. Shreepad Murthy i/b. Mr. Abhishek Patil for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : APRIL 17, 2018

P.C. :

Heard Mr. Kalro, learned Counsel for applicant and Mr. Murthy, learned Counsel for respondent No.1.

2. Mr. Kalro states that applicant has changed the Advocate and proposes to engage Advocate Glenn Lobo. The earlier Advocate Mr. Ramdas Shelke has given no objection for engaging Advocate Lobo. Mr. Karlo further states that Mr. Lobo is not available today as he is attending proceedings at Goa Bench. He, therefore, seeks time. He further states that applicant is also present in the Court.

3. Mr. Murthy invited my attention to the order dated 20.03.2018, which records that the applicant has challenged the judgment and decree dated 04.12.2010 passed by the learned Judge, Court Room No.35 of the Court of Small Causes at Bombay, Bandra in R.A.E. Suit No.57/153 of 1993 as also the judgment and decree dated 05.12.2016 passed by the Appellate Bench of the Small Causes Court in (A-1) Appeal No.13 of 2011. By these orders, the Courts below decreed the Suit instituted by the landlord under Section 13(1)(b) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short 'Act').

4. After arguing the application for quite some time, on instructions

of the applicant, who was present in the Court, it was stated that applicant would not press the application if time of one year to vacate the suit premises is granted. Assurance was given that applicant along with all adult family members using the suit premises will file undertaking in this Court within two weeks in terms of paragraph 3 of the order dated 20.03.2018. It was noted that applicant is not pressing the application and seeks one years time to vacate the suit premises and notice was issued to the respondents, returnable on 17.04.2018. In the meantime, subject to the applicant neither creating third party interest nor parting with possession as also depositing arrears of rent, if any, in this Court, before the next date of hearing, ad-interim relief in terms of prayer clause (c) was granted. Accordingly notice was issued, returnable on 17.04.2018.

5. Mr. Zaheeruddin Mazharuddin Ansari - applicant in person states that he was not explained the consequences on the earlier date of hearing. He was only informed that period of one year will be granted for filing paper-book. It is not possible to accept this explanation at all. The matter was heard for quite some time and when the Court indicated that it is dismissing the Application, that time, earlier Advocate took instructions from the applicant, who was present in the Court, and upon taking instructions, he stated that applicant would not press the application if one year time to vacate the suit premises is granted. It is only because of this submission, Court issued notice, otherwise Court would have dismissed the application on 20.03.2018.

6. Now, applicant intends to change the earlier Advocate by engaging new Advocate. This cannot be countenanced. Hence, C.R.A. fails and the same is dismissed. Respondents are at liberty to proceed with the execution proceedings in accordance with law.

(R. G. KETKAR, J.)