

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2496 OF 2018

Mahesh Hiru Vernekar	...	Petitioner
Vs.		
Dashrath Vithu Patil	...	Respondent

Mr. Vinod P. Sangvikar for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : MARCH 15, 2018

P.C. :

Heard Mr. Sangvikar, learned Counsel for the petitioner.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 17.01.2018 passed by the learned 3rd Joint Civil Judge, Senior Division, Kalyan below exhibit-15 and another order dated 17.01.2018 below exhibit-13.

3. Mr. Sangvikar submitted that the suit premises is room No.32 on the second floor in “Dashrath Bhuvan” bearing municipal house No.G03001550400 situate in Survey No.53, Hissa No.1(part) situate at Mouje Ayare, Dombivali (E), Taluka Kalyan, District Thane. The plaintiff / decree-holder however, instead of executing decree and obtaining possession of room No.32, had dispossessed the petitioner, who is the occupant of room No.35. He submitted that the petitioner, therefore, filed application exhibit-13 under Order XXI, Rule 26(2) of the Code of Civil Procedure, 1908 for handing over possession of room No.35 to the petitioner. Petitioner also filed application at exhibit-15 for directing the Bailiff to release room No.35 from attachment by removing the proclamation made on 19.10.2016 in pursuance of the order dated 24.08.2016 and for restoration of room No.35. He has taken me through

the ration card issued in the year 1994 showing petitioner's possession in respect of room No.35 as also identity card. He further submitted that Shanti Arun Tankkar residing at room No.32 has made affidavit dated 13.02.2018 in this Petition setting out therein that she had surrendered possession of that room to the landlord. He, however, submitted that the said affidavit was not filed in the trial Court as also she was not examined in the trial Court.

4. After arguing the Petition for quite some time, Mr. Sangvikar, upon taking instructions from the petitioner, who is present in the Court, seeks permission to withdraw this Petition with liberty to file review petition seeking review of orders dated 17.01.2018 passed below exhibits-15 and 13. He has tendered photocopy of petitioner's PAN Card. The same is taken on record and marked 'X' for identification.

5. In view of the motion made by Mr. Sangvikar, Petition is allowed to be withdrawn, with liberty as prayed for.

(R. G. KETKAR, J.)

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