

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL REVISION APPLICATION NO.432 OF 2018

Paribai Mansing Lambuwale (Punewale)	]	Applicant
Vs.		
Satyanarayan Mandir Trust,	]	
Kshatriya Lodha Samaj	]	
Through its President	]	
Mansingh Chattarsingh Choudhary	]	Respondent

WITH

CIVIL REVISION APPLICATION NO.435 OF 2018

Sitaram Laxman Badiwale (since deceased)	]	
Mahipal Sitaram Badiwale and others.	]	Applicants
Vs.		
Satyanarayan Mandir Trust,	]	
Kshatriya Lodha Samaj	]	
Through its President	]	
Mansingh Chattarsingh Choudhary	]	Respondent

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Mr. A.B. Tajane, for Applicants.
 Mr. Anand S. Kulkarni, for Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 25th SEPTEMBER, 2018.

P.C:

Heard Mr. Tajane, learned Counsel for the applicants and Mr. Kulkarni, learned Counsel for the respondent in both the Petitions at length.

2. C.R.A No.432 of 2018 takes exception to the judgment and decree dated 10th March, 2014 passed by the learned 8th Joint Civil Judge, Junior

Division, Solapur in Regular Civil Suit No.695 of 2013 as also the judgment and order dated 31st October, 2017 passed by the learned Ad-hoc District Judge-2 Solapur in Civil Misc. Application No.248 of 2017. By order dated 10th March, 2014, the learned trial Judge decreed the suit. Aggrieved by that decision, the applicant preferred appeal. As there was delay in filing the appeal, Civil Misc. Application was taken out for condoning delay of 3 years, 4 months and 13 days in filing the appeal. By order dated 31st October, 2017, the learned Ad-hoc District Judge dismissed the application. Resultantly, the appeal preferred by the applicant also stood dismissed.

3. C.R.A No.435 of 2018 takes exception to the judgment and decree dated 28th April, 2010 passed by the learned 13th Joint Civil Judge, J.D. Solapur in Regular Civil Suit No.403 of 2008 as also the judgment and order dated 2nd December, 2016 passed by the learned Ad-hoc District Judge-2 Solapur in Civil Misc. Application No.37 of 2013. By order dated 28th April, 2010, the learned trial Judge decreed the suit. Aggrieved by that decision, the applicant preferred appeal. As there was delay in filing the appeal, Civil Misc. Application was taken out for condoning delay of 2 years and 8 months in filing the appeal. By order dated 2nd December, 2016, the learned Ad-hoc District Judge dismissed the application. Resultantly, the appeal preferred by the applicant also stood dismissed.

4. The applications were heard on the earlier occasion and were adjourned till today so as to enable Mr. Tajane to take instructions from the applicants in both the Applications. On instructions, Mr. Tajane submits that the applicants will not press these applications if one years time to vacate the suit premises is granted to them. He states that the applicants accept correctness of the impugned orders and also accept that their tenancy is extinguished. He further states that within three weeks from today, the

applicants and all adult family members residing in the suit premises will file their undertaking with advance copy to the other side incorporating therein;

- [a] they are in possession and nobody else is in possession of the suit premises;
- [b] they have neither created third party interest nor parted with possession of the suit premises;
- [c] they will hereafter neither create third party interest nor part with possession of the suit premises;
- [d] within three weeks from today, the applicants will deposit the arrears, if any, in the trial Court, under intimation in writing to the learned Counsel for the respondent.
- [e] The applicants will go on paying contractual rent to the respondent regularly on or before 10th day of following month till handing over possession or by 31st September, 2019, whichever earlier.
- [f] the applicants will hand over possession of the suit premises to the respondent on 31st September, 2019.

5. In view thereof, on the motion made by Mr. Tajane, applications are disposed of as not pressed. The applicants shall file undertaking in the aforesaid terms within three three weeks from today. Upon furnishing undertaking, eviction decree shall not be executed on or before 31st September, 2019.

6. List the Applications for reporting compliance on 23rd October, 2018.

[R.G. KETKAR, J.]