

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 464 OF 2018

Late. Paravatiamma Nagayya Mamdya
1A. Smt. Pushpa Nagnath Mamdya
and others.

..Applicants.

Versus

Smt. Vijaylaxmi Shrikrishna Gavai
And Ors.

...Respondents

....

Mr. Anand S. Kulkarni, Advocate for the Applicants.

Ms. Kavita Shinde i/b. A.B. Tajane, Advocate for the Respondents.

....

CORAM : R. G. KETKAR, J.

DATE : 23rd OCTOBER, 2018

P.C.

1. Heard Mr. Anand Kulkarni, learned counsel for the applicants and Ms. Kavita Shinde, learned counsel for the respondents.

2. By this application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the applicants, hereinafter referred to as the 'defendants', have challenged the judgment and decree dated 29.9.2015 passed by the learned 3rd Jt. Civil Judge, Junior Division, Solapur in R.C.S. No.634/1999 as also the judgment and decree dated 30.11.2017 passed by the learned District Judge-5, Solapur in Regular Civil Appeal No.259/2015. By these orders, the Courts below decreed

the suit instituted by the plaintiffs under Section 12 and 13(1)(g) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short, 'Act').

3. The matter was heard at length on 12.7.2018 when notice was issued to the respondent and thereafter again on 17.10.2018 and was ordered to be listed today for passing order. The matter was kept today so as to enable Mr. Kulkarni to take instructions that if the applicants are not inclined to press this C.R.A., they will be given reasonable time to vacate the suit premises.

4. Upon taking instruction from applicant No.1C Vinayak Narayan Mamdyal, Mr.Kulkarni states that he has authority to make statement on behalf of all the applicants. He states that the applicants will not press this C.R.A. if they are given time upto and inclusive of 30.6.2019 to vacate and hand over possession of the suit premises to the respondents. He assures that the applicants will not seek further extension of time for vacating the suit premises. He assures that the applicants and all adult family members residing in the suit premises will file usual undertaking in this Court on or before 1.11.2018, incorporating therein that :

- i. they are in possession and nobody else is in possession of the suit premises;

- ii. they have neither created third party interest nor parted with possession of the suit premises;
- iii. they will hereafter neither create third party interest nor part with possession of the suit premises;
- iv. they will deposit the entire arrears of rent, if any, in this Court within three weeks from today; and
- v. they will vacate and handover possession of the suit premises to the plaintiffs on or before 30.6.2019.

5. In view thereof, Civil Revision Application is disposed of as not pressed in the following terms :

- i. The defendants accept the correctness of the impugned orders and that their tenancy is extinguished.
 - ii. They will file undertaking, in the aforesaid terms, on or before 1.11.2018 with advance copy to other side.
 - iii. The defendants will handover vacant and peaceful possession of the suit premises to the plaintiffs on or before 30.6.2019 and will not seek further extension of time. Order accordingly.
6. List the application for reporting compliance on 02.11.2018.

(R. G. KETKAR, J.)