

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.261 OF 2018

Sakharam Yashawant Nalawade ... Applicant
Vs.
Vincent Gabrial Gomes and others ... Respondents

Mr. S. M. Gorwadkar, Senior Advocate i/b. Ms Sapna S. Krishnappa for Applicant.
Ms Minakshi Surve for Respondents No.1 to 8.

CORAM : R. G. KETKAR, J.
DATE : JULY 23, 2018

P.C. :

Heard Mr. Gorwadkar, learned Senior Counsel for the applicant and Ms Surve, learned Counsel for the respondents No.1 to 8 at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), applicant has challenged the judgment and decree dated 21.04.2007 passed by the learned Judge, Court Room No.15 of the Court of Small Causes at Bombay in R.A.R.Suit No.655 of 1999 as also the judgment and decree dated 28.02.2018 passed by the learned Appellate Bench of the Court of Small Causes at Bombay in Appeal No.484 of 2007. By these orders, the Courts below decreed the Suit instituted by the respondents No.1 to 8, hereinafter referred to as 'plaintiffs', under Sections 13(1)(e), 13(1)(g), 13(1)(k) and 13(1)(l) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short 'Act') and directed the applicant, hereinafter referred to as 'defendant No.1' and respondent No.9, hereinafter referred to as 'defendant No.2' to handover vacant and peaceful possession of room No.9 in Chawl No.4 of Nathaline Gabrial Gomes Chawl, Kanjurmarg, Mumbai 400 042 (for short 'suit premises').

3. After arguing the Application for quite some time, Mr.Gorwadkar, on instructions, states that applicant will not press this application if time of one year to vacate the suit premises is given to him. Mr.Gorwadkar submits that defendant No.1 and all adult family members residing in the suit premises will file usual undertaking within 2 weeks in this Court with advance copy to the other side. He also assures that applicant will go on paying rent / compensation regularly for each month on the 10th day of next succeeding month.

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

- a. Applicant accepts correctness of the impugned orders and also accepts that his tenancy is extinguished;
- b. Applicant and all adult family members residing with him in the suit premises will file undertaking within two weeks from today with advance copy to the other side, 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 clear the arrears of rent, if any, within 2 weeks from today and will go on paying rent till 31.07.2019 or till handing over of possession, whichever is earlier;
 - (v) They will not seek further extension of time for handing over possession;
 - (vi) They will hand over vacant and peaceful possession of the suit premises to the respondents on or before 31.07.2019.

5. In view thereof, notwithstanding disposal of the C.R.A., eviction decree shall not be executed on or before 31.07.2019.
6. List the Application for 'reporting compliance' on 13.08.2018.

(R. G. KETKAR, J.)

Minal Parab

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Sandip
Parab

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Minal Sandip Parab
Date: 2018.07.23
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