

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 978 OF 2014

Shivaji Education Society's Employees
Consumer Co-operative Society Ltd.

...Applicant

Versus

Smt Kumudini Kalyannrao Patil
and another.

...Respondents

....

Mr. Umesh Kurund, Advocate for the Applicant.

Ms. Manisha Deokar a/w. S.M. Katkar, Advocate for Respondent No.1.

....

CORAM : R. G. KETKAR, J.

DATE : 27th AUGUST, 2018

P.C.

1. Heard Mr. Umesh Kurund, learned counsel for the applicant and Ms. Manisha Deokar, learned counsel for respondent No.1, at length.

2. By this application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.') the applicant has challenged the judgment and decree dated 30.12.2013 passed by the learned District Judge-4, Solapur in Regular Civil Appeal No.289/2011. By that order, the learned District Judge allowed the appeal preferred by the first respondent and quashed and set aside the judgment and decree dated 5.10.2011 passed by the learned Jt. Civil Judge, Senior Division at

Barshi in Regular Civil Suit No.652/1999. The learned District Judge directed the applicant/defendant to hand over vacant and peaceful possession of City Survey No.762-E, admeasuring 137.50 square meter situate at Barshi, District – Solapur, as more particularly described in paragraph-1 of the plaint (for short, 'suit premises') within three months from the date of the order.

3. The learned Counsel for the parties have invited my attention to this Court's order dated 7.4.2016. That order recorded appointment of the Liquidator on the applicant society by order dated 21.2.2015. The statement of the respondent/plaintiff that possession of the suit premises is already taken by following due process of law, was also recorded.

4. Mr. Kurund submitted that in pursuance of the order dated 7.4.2016, the Liquidator was impleaded as respondent No.2 in the present proceedings and he is duly served through Court service. Despite that, none has entered appearance on behalf of the second respondent. Respondent No.2 also does not appear.

5. Ms. Deokar has handed over the report dated 22.2.2016 at Exhibit-22, punchnama dated 22.2.2016 at Exhibit-17, possession receipt dated 22.2.2016 at Exhibit-16, purshis dated 22.2.2016 at

Exhibit-20 and possession receipt dated 22.2.2016 at Exhibit-21. Same is taken on record and marked 'A Collectively' for identification.

6. As noted earlier, by order dated 21.2.2015, the Liquidator was appointed on the applicant-society and is impleaded as second respondent in the matter. Despite service the Liquidator has not participated in the present proceedings. The possession is already taken over by the respondent/plaintiff. In view thereof, nothing survives in this application and the same is disposed of reserving liberty to the second respondent to adopt appropriate proceedings in accordance with law. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)

Digitally signed
Pradipkumar
Prakashrao
Deshmane
Date
2018.08.30
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