

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.346 OF 2017

Sundeep Singh Kanwalijit Singh Lamba ... Applicant
Vs.
Rajesh Sureshchandra Shah and others ... Respondents

Mr. V. M. Singh i/b. Mr. Mohan Bir Singh for Applicant.
Mr. P. B. Shah i/b. Mr. Kayval P. Shah for Respondents No.1 to 9.

CORAM : R. G. KETKAR, J.
DATE : AUGUST 6, 2018

P.C. :

Heard Mr. Singh, learned Counsel for the applicant and Mr. Shah, learned Counsel for the respondents No.1 to 9 at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), applicant, hereinafter referred to as 'defendant No.3', has challenged the judgment and decree dated 18.04.2017 passed by the Appellate Bench of the Small Causes Court in (A-1) Appeal No.117 of 2013. By that order, the Appellate Court allowed the Appeal preferred by respondents No.1 to 9, hereinafter referred to as 'plaintiffs', and directed defendant No.3 and respondents No.10 and 11, hereinafter referred to as 'defendants No.1 and 2', to deliver jointly and severally possession of Shop No.4, Ground Floor, Panchsheel Building, Plot No.264, Sulochana Shetty Marg, Sion (West), Mumbai 400 022 to the plaintiff.

3. Mr. Singh submits that defendants No.1 and 2 were ex-parte before Courts below. He submits that respondents No.1 to 9 being the plaintiffs are the only contesting respondents. He, therefore, seeks leave to delete respondents No.10 and 11 (defendants No.1 and 2) from the

present proceedings.

4. On the oral application made by Mr. Singh, leave to delete respondents No.10 and 11 is granted. Amendment shall be carried out forthwith. Rule. Mr. Shah waives service for respondents No.1 to 9. Having regard to the narrow controversy raised in this Application, Rule is made returnable forthwith and the Application is taken up for final hearing.

5. Plaintiffs have instituted Suit against defendants No.1 to 3 invoking grounds under Sections 15, 16(1)(e) and 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short 'Act'). By order dated 07.09.2013, the learned trial Judge dismissed the Suit. Aggrieved by that decision, plaintiffs preferred Appeal under Section 33 of the Act before the Appellate Bench of the Small Causes Court. The Appellate Court decreed the Suit under Section 16(1)(e) and 16(1)(g) of the Act. Thus, the Courts below declined to pass decree under Section 15 of the Act.

6. During the course of hearing of this Application, it was indicated to Mr. Shah that the Court is inclined to admit the C.R.A. and if he is agreeable, by consent of the parties, order passed by the Appellate Court can be set aside by restoring the appeal for deciding it afresh within a time bound manner. Mr. Shah states that plaintiffs No.1 and 5 are present in the Court. He has tendered photocopies of their identity cards viz. driving licence of plaintiff No.1 and PAN Card of plaintiff No.5. The same are taken on record and marked 'A colly.' for identification. Upon taking instructions from them, he submits that the impugned order may be set aside. Mr. Singh has no objection.

7. In view thereof, by consent of the parties, C.R.A. is disposed of in

the following terms:

- a. The impugned order dated 18.04.2017 passed by the Appellate Court in (A-1) Appeal No.117 of 2013 is set aside and the Appeal is restored to the file of the Appellate Court;
- b. The parties agree that they will appear before the Appellate Court on 27.08.2018 and for that purpose, no fresh notice be issued to them;
- c. After appearance of the parties, the Appellate Court will fix the suitable date;
- d. The Appellate Court is requested to dispose of the appeal within 3 months from fixing suitable date;
- e. All contentions of the parties on merits are expressly kept open;
- f. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

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