

Sanjay @ Sanjiv Ishwarlal Desai Vs. Naishad Mehta (decd) through his legal heirs and another		Applicant Respondents
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CORAM : R. G. KETKAR, J.
DATE : JULY 19, 2018

Heard Mr. Deo, learned Counsel for the applicant and Mr. Dubey, learned Counsel for the respondents No.1(a) to 1(c) at length.

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13(1)(a), 13(1)(b) and 13(1)(l) of the Act and declined to pass the decree on the grounds under Section 13(1)(b), 13(1)(g), 13 (1)(e) and 13(1)(k) of the Act. Aggrieved by that decision, defendant No.2 preferred Appeal No.318 of 2018. Plaintiff filed cross-objections at exhibit-35 as the learned trial Judge declined to pass decree on the ground of additions and alterations [13(1)(b)], reasonable and bonafide requirement [13(1)(g)] and unlawful sub-letting [13(1)(e)]. By order dated 19.04.2018, the Appellate Court dismissed the Appeal and partly allowed the cross-objections to the extent of issue of unlawful subletting. It is against these orders, defendant No.2 has instituted the present Civil Revision Application.

3. After arguing the application for quite some time, Mr. Deo, on instructions from the defendant No.2, who is present in the Court, states that defendant No.2 will not press this application, if time of one year is given to him for handing over and vacating the suit premises to the plaintiff. Mr. Deo has tendered photocopy of defendant No.2's Aadhar Card, which is taken on record and marked 'X' for identification. Mr. Deo submits that defendant No.2 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. Mr. Dubey submits that respondent No.1(c) - Arpan Naishadh Mehta is present in the Court. He has tendered photocopy of his Aadhar Card, which is taken on record and marked 'Y' for identification.

5. 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 tenancy of N. M. Desai 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 3 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.

6. In view thereof, notwithstanding disposal of the C.R.A., eviction decree shall not be executed on or before 31.07.2019.

7. List the Application for 'reporting compliance' on 09.08.2018.

(R. G. KETKAR, J.)

Minal Parab