

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

CIVIL REVISION APPLICATION (STAMP) NO.18463 OF 2018

Bhagwandas Lalubhai Patel (since deceased)]
through Lrs.Savitaben Bhagwabdas Patel & Ors.] Applicants

Vs.

Petuline A. Creado (since deceased)]
Francis Joseph Kinny & Anr.] Respondents

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Mr. Kunal Bhanage i/b Mr. Akshay Pawar, for Applicants.

Mr. Kartik Prasad a/w Trupti Shetty i/b Dhruve Liladhar & Co., for Respondents.

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CORAM : R.G. KETKAR, J.

DATE : 17th JULY, 2018.

P.C:

Heard Mr. Bhanage, learned Counsel for the applicants and Mr. Prasad, learned Counsel for the respondents at length.

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 "defendants" have challenged the judgment and decree dated 15th February, 2012 passed by the learned Judge, Court Room No.35 of the Court of Small Causes at Mumbai (Bandra Branch) in R.A.E & R Suit No.15/27 of 2004 as also the judgment and decree dated 2nd May, 2018 passed by the Appellate Bench of the Court of Small Causes at Mumbai in (A-1) Appeal No.14 of 2012. By these orders, the Courts below decreed the suit instituted by the respondents, hereinafter referred to as "plaintiffs" invoking grounds under section 15 and 16

(1) (b) of the Maharashtra Rent Control Act, 1999 (for short 'Act') and directed the defendants to hand over vacant and peaceful possession of Room No.9, J.F. Misquitta Chawl, C.T.S. No.1839, Shradhanand Road, Vile Parle (East), Mumbai – 400 057 (for short 'suit premises') to the plaintiffs within three months from the date of the order.

3. After arguing the application for quite some time, Mr. Bhanage, on instructions from applicant No.2 Mahendra Bhagwandas Patel, who is present in the Court submits that the applicants will not press this application if time of one year and three months to vacate and hand over possession of the suit premises is granted to them. He has tendered photo copy of Aadhar Card of applicant No.2. He assures that within two weeks from today, applicants and all adult family members residing in the suit premises will furnish usual undertaking with advance copy to the other side, incorporating therein;

- [a] they are in possession and nobody else is in possession of the suit premises;
- [b] they have neither created third party interest nor parted with possession of the suit premises;
- [c] they will hereafter neither create third party interest nor part with possession of the suit premises;
- [d] within two weeks from today, defendants will deposit the entire arrears in this Court, under intimation in writing to the learned Counsel for the plaintiffs.
- [e] The defendants will go on paying contractual rent to the plaintiffs regularly on or before 10th day of following month till handing over possession or by 31st October, 2019, whichever earlier.
- [f] the defendants will hand over possession of the suit premises to the plaintiffs on 31st October, 2019.

4. The defendants accept correctness of the impugned orders and also accept that their tenancy is extinguished. The defendants shall file undertaking in the aforesaid terms within two weeks from today. Upon furnishing undertaking, eviction decree shall not be executed on or before 31st October, 2019.

5. In view thereof, on the motion made by Mr. Bhanage, application is disposed of as not pressed.

6. List the Petition for reporting compliance on **7th August, 2018.**

[R.G. KETKAR, J.]