

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.114 OF 2010

Arun Chhotalal Marwadi @ Ghiya and Anr. ...Applicants

vs.

Raghuraja K. Tulshibagwala and Ors. ...Respondents

Ms. P.N. Dalal I/b. M/s. M.P. Vashi & Associates, for Applicants
Mr. S.N. Chandrachud I/b. Mr. Vaibhav Patankar, for the
Respondents.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 05, 2018

P.C.:

. Heard learned counsel for the parties.

2. In the present Petition, the Applicants-tenants have challenged the judgment and orders dated 24th August, 2009 and 26th June, 2006 passed by the trial Court and the Appeal Court ordering the eviction of the Applicants from the suit premises on the ground of default in payment of rents.

3. This Civil Revision Application was admitted and the execution of the decree on the ground of default for payment of rent was stayed.

4. Mr. Chandrachud, learned counsel for Respondents landlord point out that the Respondents -landlord had instituted yet another suit No. 247 of 2015 seeking eviction of the Applicants on the ground of non user of the very same suit premises. He points out that this suit was decreed by the judgment and decree dated 27th April, 2017. This judgment and decree came to be confirmed by the Appeal Court on 15th February, 2018. Mr. Chandrachud then makes reference to judgment and order dated 9th July, 2018 passed by this Court in Civil Revision Application No. 338 of 2018 instituted by the present Applicants and to challenge the judgment and decree dated 27th April, 2017 and 15th February, 2018 by which the Applicants have been ordered to be evicted from the suit premises on the ground of non user. From the perusal of the judgment and orders, it is evident that the Civil Revision Application No. 338 of 2018 instituted by this very Applicants came to be dismissed.

5. Mr. Chandrachud also placed on record the copy of the order dated 23rd October, 2018 made by the Hon'ble Apex Court declining Special Leave against the judgment and order dated 9th July, 2018 in Civil Revision Application No. 338 of 2018. Mr.

Chandrachud submits that since the decree for eviction on the ground of non user has attained finality upto the Hon'ble Apex Court, the Applicants are not interested in execution and the judgment and decree dated 24th August, 2009 and 26th June, 2006 which are the subject matter of challenge in the present Civil Revision Application. He therefore, submits that the present Civil Revision Application may be disposed of by recording this statement. He submits that this is necessary because on the basis of the said order granted in the present Civil Revision Application, the executing Court is not proceeding to execute the decrees in eviction on the ground of non user which had already attained finality.

6. Accordingly, the statement to the aforesaid fact, made by Mr. S.N. Chandrachud on behalf of the Respondents-landlord is recorded. In view of such statement, nothing survives in the present Civil Revision Application which is consequently disposed of.

7. It is therefore made clear that there is no bar to the executing Court proceeding to execute the judgment and decrees

dated 27th April, 2017 and 15th February, 2018 in civil suit No. 247 of 2015.

8. All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)