

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.4 OF 2018

Mallikarjun Rangondappa Patil	...	Applicant
Vs.		
Prashant Vijay Raje	...	Respondent

Mr. Sanjiv A. Sawant for Applicant.

CORAM : R. G. KETKAR, J.
DATE : JUNE 27, 2018

P.C. :

Heard Mr. Sawant, learned Counsel for the applicant 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 'plaintiff', has challenged the judgment and decree dated 05.02.2014 passed by the learned 12th Joint Civil Judge, Junior Division, Solapur in Regular Civil Suit No.1500 of 2012 as also the judgment and decree dated 04.09.2017 passed by the learned Principal District Judge, Solapur in Civil Appeal No.76 of 2014. By these orders, the Courts below partly decreed the Suit instituted by the plaintiff and issued injunction restraining respondent, hereinafter referred to as 'defendant', from disturbing the settled possession of the plaintiff over the suit property, more particularly described in paragraph 1 of the plaint, without following due process of law. The Courts below rejected the prayer made by the plaintiff for declaration of his tenancy rights.

3. In support of this Application, Mr. Sawant submitted that the Courts below committed serious error in ignoring the voluminous documentary evidence produced by the plaintiff during the course of his

evidence. He submitted that the defendant though appeared in the Suit, failed to file written statement and did not participate in the trial. The evidence produced by the plaintiff remained unchallenged. In particular, he invited my attention to paragraph 8 of the trial Court's order wherein the documents produced by the plaintiff are referred. He submitted that the plaintiff had paid municipal taxes to the Solapur Municipal Corporation. He submitted that the plaintiff did not insist for issuing rent receipts from the defendant as defendant had taken loan of Rs.5,00,000/- interest free. In paragraph 12, the learned trial Judge recorded that the original receipts produced by the plaintiff (exhibits 44 to 49) showing payment of property taxes shows that taxes were paid on behalf of the defendant. He submitted that the Courts below ignored documents, which clearly establish tenancy rights of the plaintiff.

4. I have considered the submissions advanced by the Mr. Sawant. I have also perused the plaint and in particular averments made in paragraph 2 of the plaint where plaintiff asserted that apart from paying rent @ Rs.2,200/- per month, he was paying property taxes and electricity bills. He further asserted that though he was paying rent for last 4 years, defendant did not issue rent receipts. The Courts below have considered the evidence on record and in particular, the District Court recorded a finding that plaintiff is a highly qualified person. He is a professor. He claims to be in possession of the premises as a tenant for more than 8 years. Though he claims to be paying rent regularly, he did not insist for issuing rent receipts. It has come on record that receipts of property tax are in the name of the defendant. For the reasons recorded in paragraphs 16, 17 and 20 of the District Court's judgment, I do not find that the Courts below committed any error in rejecting the claim of tenancy of the plaintiff. The learned District Judge rightly observed that merely because defendant did not contest the claim by filing written statement that will not mean that there is relationship between the

parties as landlord and tenant. In view thereof, no case is made out for interfering with the impugned orders. Application fails and the same is dismissed.

(R. G. KETKAR, J.)

Minal Parab