

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION (ST) NO. 33373 OF 2018

Abdul Rashid Abdul Lateef .. Applicant
vs.
Rekhan Akhtar Abdul Rahim and ors. .. Respondents

Mr. Rameshwar N. Gite for the Applicant.

CORAM : M. S. SONAK, J.
DATE : 14 DECEMBER 2018.

P.C. :-

- 1] Heard Mr. Gite, the learned counsel for the applicant.
- 2] The challenge in this Civil Revision Application is to the judgments and order dated 4th November 2016 and 22nd October 2018 made by the Trial Court and the Appeal Court ordering the eviction of the applicant on the following two grounds:
 - (a) Default in payment of rents;
 - (b) reasonable and bona fide requirement of the landlord.
- 3] Mr. Gite submits that the applicant in his written statement had clearly stated that the rents were regularly paid in cash and it is the landlord who refused to issue any

receipts therefor. Mr. Gite, the learned counsel for the applicant states that the applicant deposed to the aforesaid facts, but the evidence of the applicant has been discarded on the ground why there is no documentary evidence. Mr. Gite submits that since the landlords were not issuing any receipts it is impossible for the applicant to produce any documentary evidence. He therefore, submits that there is clear perversity in the findings of fact recorded by the two Courts that there was a default in payment of rents.

4] Mr. Gite submits that the requirement of the landlords was neither reasonable nor *bonafide*. He submits that the suit premises are very small, i.e., 10 x 10 sq. ft. through which the applicant operates a medical store. He submits that the landlords have alternate premises and therefore, no orders should have been made on the ground of reasonable and *bona fide* requirement.

5] This is a matter where the two Courts have recorded concurrent findings on fact. In the exercise of revisional jurisdiction, therefore, it will not be appropriate for this

Court to reassess evidence on record unless a case is made out that the findings of fact are contrary to the weight of the evidence on record or otherwise vitiated by perversity.

6] The two Courts, have appreciated the defence raised by the applicant on the aspect of payment of rents. If at all no receipts were issued as alleged by the applicant, the applicant could have always sent the rents by money orders or through banking transactions. There are provisions to deposit rents in Court as well. The documentary evidence would then be available in the context of not only payment but also readiness and willingness to pay rents. Since noting of this sort had been done, the Courts have returned the concurrent findings on the aspect of default in payment of rents. Thus, construed, it cannot be said that such concurrent findings are either contrary to weight of evidence on record or otherwise vitiated by perversity.

7] Besides, in the present case, the applicant does not appear to have availed benefit under section 15(3) of the Maharashtra Rent Control Act (Rent Act) for deposit of the

arrears together with costs and interests on or before the 1st date of hearing. The contractual rent in the present case was Rs.800/- per month therefore, nothing prevented the applicant, taking benefit of section 15(3) of the Rent Act without prejudice to his contention regards cash payments.

8] On the aspect of reasonable and *bona fide* requirement, again, this is a case of concurrent findings of fact. The applicant did not lead any evidence, on the issue of comparative hardship. The applicant did not demonstrate that the landlords have alternate premises and therefore, their need is neither reasonable nor *bona fide*. Again, the two Courts have returned concurrent findings of fact and there is no case made out to warrant interference with the same.

9] For the aforesaid reasons, it is not possible to grant the applicant any relief in this Civil Revision Application. Accordingly, the same is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)