

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Revision Application No. 154 of 2017
[Moreswar Tukaram Tarwarkar Vs. Late Rao Bahadur Devinani
Laxmanswai Ashram (Hostel), Nagpur]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. A. K. Saxena, Adv., for the applicant.
Mr. Masood Shareef, Adv., for non-applicant.

CORAM : A. S. CHANDURKAR, J.

DATE : 20th February, 2018

By this Civil Revision Application, the applicant who is original defendant seeks to challenge the decree for eviction passed by the trial Court and confirmed by the first appellate Court.

The non-applicant sought eviction of the applicant under provisions of Sections 15 and 16 (1) (g) of the Maharashtra Rent Control Act, 1999. In the plaint, it was pleaded that notice demanding arrears of rent was issued on 15th July, 2013 and the same was duly served. Despite receipt of that notice, the arrears were not paid. It was further pleaded that the Trust had bona fide need of the premises occupied by the applicant.

In the Written Statement, it was pleaded that the applicant had paid taxes and had spent some amount on behalf of the plaintiff. It was further pleaded that the suit filed by the Trust was not maintainable.

The trial Court recorded a finding that the notice at Exh.18 issued to the applicant was duly served, but the arrears of rent were not paid. It further recorded a finding that the plaintiff had bona fide need of the suit premises. These findings were confirmed by the appellate Court.

The learned counsel for the applicant submitted that the plaintiff-Trust had no authority to seek eviction of the tenant. He submitted that as the tenant had spent amounts on payment of taxes, he was not in arrears of rent. It was also submitted that the bona fide need of the Trust was not made out.

The learned counsel for the non-applicant submitted that both the Courts recorded a concurrent finding with regard to the tenant being in arrears of rent and the bona fide need of the Trust. The plea that the Trust had no authority to seek eviction was not raised in the Written Statement. Same was being raised for the first time in the present proceedings.

Having heard the respective counsel, I do not find

that both the Courts committed an error in directing eviction of the applicant. The notice demanding arrears has been duly served and said arrears were not deposited within a period of ninety days thereafter. The bona fide need has been held to be proved by both the Courts. As regards the submission that certain payments were made by the tenant by way of taxes, there is no evidence in that regard brought by the tenant. Even the authority of the trustees was not challenged by raising a proper defence.

In view of aforesaid, I do not find any case made out to exercise revisional jurisdiction. The Civil Revision Application is, therefore, dismissed.

In the facts of the case, the applicant is granted time of three months to vacate the premises.

Judge