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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.37 OF 2019

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| 1. Narayan Jijabapu @ Jijaba Mane
Age - 85 years, Occ - Nil | APPLICANTS |
| 2. Smt. Bhimabai Haribhau Mane
Age - 50 years, Occ - Household | |

Both R/o J. J. Galli, Mangalget,
Ahmednagar

VERSUS

Machhindra Ganpat Salve Age - 80 years, Occ - Pensioner, R/o 1251, J. J. Galli, Mangalget, Ahmednagar	RESPONDENT
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Mr. N. C. Garud, Advocate for the applicants
Mr. Nitin V. Gaware, Advocate for the respondent

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 26th FEBRUARY, 2019

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith and heard learned advocates for the parties finally with consent.

2. The civil revision application has been moved against concurrent findings rendered by two courts hitherto, trial as well as appellate, on the grounds of eviction, namely, commission of default in making payment of rent, *bona fide* requirement of land

lord and creation of sub tenancy by the original tenant, who is applicant No. 1 in present matter in favour of applicant No. 2.

3. Mr. Garud, learned advocate appearing on behalf of the applicants though has contended that decisions so rendered by the two courts may not be said to be compatible with the evidence on record, yet, after long drawn argumentative process, it does not effectively emerge that the two courts have faltered in giving finding on facts based on evidence. Appreciation of evidence does not in any way appear to be not adhering to the evidence or for that matter is perverse.

4. Perusal of decisions by the two courts reflect upon that relevant aspects in respect of the three grounds have been discussed in quite some details, particularly, the appellate court has discussed in respect of willful default in paragraphs No. 18 to 31, the issue of sub tenancy has been discussed in paragraphs No. 32 to 34 and *bona fide* requirement has been discussed in paragraph No. 35 of its order.

5. The situation thus emerges that the two courts, on appreciation of evidence, have found that the land lord has been able to prove three grounds for eviction, referred to above.

6. In the circumstances, though learned advocate for the applicants urges this court to indulge into the request being made in the civil revision application, it does not appear that the civil revision application calls for any meddlesome approach. Civil revision application, therefore, being not entertained and is dismissed. Rule stands discharged.

7. At this stage, Mr. Garud, learned advocate entreats the court to give sufficient time for vacating the suit premises, particularly having regard to the age of applicant No. 1, while he has fairly referred to that applicant No.2 is no longer residing in the suit premises, contending that applicant No. 1 is a small time trader and requests that period of a year for vacating the suit premises.

8. On the other hand, Mr. Gaware, learned advocate appearing on behalf of the respondent, submits that the respondent is in dire need of the suit premises and has been fighting a long drawn battle for almost a decade for a room admeasuring 12 X 8 feet. In fact the needs have further grown. The situation is acute. He, however, relents to a reasonable period.

9. At this stage, Mr. Garud, learned advocate for applicants

submits that the applicants would vacate the suit premises by this calendar year end i.e. 31st December, 2019.

10. As such, possession of the suit premises be handed over peacefully by the applicants to the respondent by 31st December, 2019 without any objection, without creating any third party interest or any obstacle of whatsoever nature. In the meanwhile, till the period of vacating the premises, applicants shall keep on paying compensation to the respondent at the same rate at which rent is required to be paid per month. An undertaking to aforesaid effect be filed by the applicants in the executing court within a period of four weeks from today.

**[SUNIL P. DESHMUKH]
JUDGE**