

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10079 OF 2008 IN
CIVIL REVISION APPLICATION NO. 50 OF 1988

Smt. Rukhminbai w/o Narayanrao Dodke
& others

Applicants

Versus

Hiramansingh s/o Lachmansing @ Laxmansing
Bundeale

Respondent

Mr. S. S. Choudhari, Advocate for the applicants.

CORAM : M.S. KARNIK, J.

DATE : 9th August, 2019.

PER COURT :

1. This is an application for recalling order dated 19.06.1992 passed by this Court by which the revision applicants were directed to take steps to bring legal heirs of deceased Narayanrao Dodke on record. Learned counsel for the applicant states that all the legal heirs are now on record.

2. For the reasons mentioned in the application, application is allowed. Order dated 19.06.1992 dismissing the Civil Revision Application is recalled. Civil Revision Application is restored.

(M.S. KARNIK, J.)

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PER COURT :

1. Heard learned counsel for the applicants.
2. It appears that after the legal representatives of the original plaintiff are brought on record, no one has appeared on behalf of the respondents to contest the present revision. It seems that respondents are not interested in contesting the Civil Revision Application.
3. Learned counsel for the applicants submits that he is the tenant in respect of the suit premises. The Rent Controller passed a decree on the ground of default in payment of rent. The order passed by the Rent Controller was challenged by the tenant by filing appeal before the District Judge Beed. The appeal came to be dismissed.
4. The main contention of the learned counsel for the applicant

is that the inference drawn by the Courts below that the defendant should have made enquiry to find out who was the owner of the suit house and then the defendant should have made payment of rent, is not correct. Learned counsel would submit that there were various suits pending between the parties claiming title over the suit property. He would further submit that there was no demand for payment of arrears of rent. He would further submit that he was not aware as to who was the subsequent owner and neither the erstwhile owner informed the applicant about transfer of ownership. Learned counsel would therefore submit that in such circumstances, the Courts below have committed an error in concluding that there has been default in payment of rent. As indicated earlier, there has been no contest by the respondents to this contention of the applicant.

5. It seems that respondents are not interested in contesting the revision application. I, therefore, have no option but to accept the submission of learned counsel for the applicant and allow the Civil Revision Application in terms of prayer clause 'B'. The impugned orders of Courts below are set aside. Rule is made absolute. Civil Revision Application accordingly stands disposed of.

(M.S. KARNIK, J.)

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