

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.369 OF 2017

Ninad Kailas Shah	...	Applicant
Versus		
Ramanuj Badrinarayan Daga	...	Respondent

**ALONG WITH
CIVIL REVISION APPLICATION (ST.) NO.18851 OF 2018
WITH
CIVIL APPLICATION NO.442 OF 2018**

Ramanuj Badrinarayan Daga	...	Applicant
Versus		
Ninad Kailas Shah	...	Respondent

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Ms. Gauri Shah a/w Mr. Surel Shah for the Applicant in Civil Revision Application No.369 of 2017 and for Respondent in Civil Revision Application (St.) No.18851 of 2018 and Civil Application No.442 of 2018.

Mr. Samir Kumbhakoni for the Respondent in Civil Revision Application No.369 of 2017 and for the Applicant in Civil Revision Application (St.) No.18851 of 2018 and Civil Application No.44s of 2018.

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CORAM : S.C. GUPTE, J.

DATE : 15 OCTOBER 2019

P. C. :

. Heard learned Counsel for the parties.

2 Civil Revision Application No.369 of 2017 challenges an order

passed by the Court of Civil Judge Junior Division, Akkalkot on an application filed by the Applicant (original defendant) for framing of an issue of jurisdiction (Exhibit '14'). The Applicant is the landlord in respect of the suit premises. The suit, in which the impugned order came to be passed, has been filed by the Respondent-tenant seeking a perpetual injunction restraining the Applicant-landlord from obstructing the former from carrying out repairs to the suit premises. The Respondent moved an application in his suit for ad-interim reliefs in terms of the perpetual injunction sought by him. During the pendency of that application, the present application (Exhibit '14') was moved by the Applicant for framing of an issue of jurisdiction. It was the case of the Applicant that originally the Respondent had filed a suit (RCS Suit No.60 of 2001) for a similar relief seeking a perpetual injunction against the Applicant. The trial court had rejected that suit under Order 7 Rule 11 of the Code of Civil Procedure, 1908 for want of jurisdiction to try the dispute. The Respondent's appeal from that order was dismissed by the District Court. It was submitted that after sixteen years of filing of that suit, the present suit has been filed by the Respondent claiming similar reliefs. It was submitted that the Court had no jurisdiction to decide the new suit.

3 The trial court, in its impugned order, framed a preliminary issue of jurisdiction and answered it in the affirmative. The trial court observed that the earlier civil suit, being RCS No.60 of 2001, was filed for claiming perpetual injunction for restraining the Applicant from obstructing the plaintiff to carry out tenantable repairs

to the suit shop. That suit was filed under the provisions of the Specific Relief Act. The present suit was, however, filed claiming mandatory injunction against the Applicant herein for carrying out tenantable repairs to the roof of the suit shop under Section 14 of the Maharashtra Rent Control Act, 1999 (“Act”). The court, in the premises, observed that reliefs in the two suits were clearly different. The earlier suit was dismissed, particularly, on the ground of an existing relationship of landlord and tenant between the parties and bar of suit in accordance with the provisions of Section 33 of the Act. The present suit was for mandatory relief against the Appellant-landlord for carrying out tenantable repairs to the roof of the suit shop. The relief was covered by the provisions of Section 14 of the Act, which imposes a duty on the landlord to keep the premises in tenantable condition. If the landlord fails to carry out such tenantable repairs, the tenant is entitled to carry out such repairs and deduct expenses of such repairs from the rent payable to the landlord. As per the provisions of Section 33(c) of the Act, the Civil Judge Junior Division at Akkalkot had the requisite jurisdiction to entertain and try the suit for deciding any application under the Act including an application under Section 14 of the Act.

4 There is no infirmity to be found in the impugned order passed by the trial court. The causes of action in the earlier suit and the present suit are materially different. The present suit is filed for enforcement of the tenant’s rights under Section 14 of the Act, and having regard to the provisions of Section 33(c) of that Act, the Court

of Civil Judge Junior Division had the requisite jurisdiction to decide such suit. There is accordingly no merit in the Civil Revision Application. The Civil Revision Application is dismissed.

5 The companion application, namely, Civil Revision Application (St.) No.18851 of 2018, challenges orders passed by the Courts in the earlier suit, namely, RCS No.60 of 2001. The Applicant in that CRA is the original plaintiff and who has filed the new suit, RCS No.23 of 2016, the impugned order passed in which has been confirmed in the Civil Revision Application decided above. The relief of injunction sought in the earlier suit has, thus, become infructuous. Learned Counsel, accordingly, does not press the civil revision application. Civil Revision Application (St.) No.18851 of 2018 is dismissed as not pressed.

6 In view of disposal of the civil revision applications, Civil Application No.442 of 2018 does not survive and is disposed of as such.

(S.C. GUPTE, J.)