

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 117 OF 2019

Mr. Garla Harinath Adanna Chetty ...Applicant

Versus

Smt. Girija Timmaya Shetty ...Respondent

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Mr. Ashok V. Jain i/b. M/s. A.V. Jain Associates, for the Applicant.

Mr. Jagdish S. Hegde, Advocate for the Respondent.

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CORAM : R. G. KETKAR, J.

DATE : 03rd JULY, 2019

P.C.

1. Not on board. At the request Mr. Jain taken up for admission.
2. Heard Mr. Ashok V. Jain, learned counsel for the applicant and Mr. Jagdish Hegde, learned counsel for the respondent, at length.
3. The learned counsel appearing for the parties have tendered the consent terms dated 3.7.2019 signed by Shri Pankaj Lalji Shah, Constituted Attorney of the applicant Garla Harinath Adanna Chetty as also signed by Advocate for the applicant. The consent terms are also signed by Shri Timmaya Shetty, the husband and Constituted Attorney of the respondent Smt. Girija Timmaya Shetty as also her Advocate. Along with the consent terms, a photo-copy of the Aadhaar card of Pankaj Lalji Shah, a photo-copy of the Power of Attorney given by the petitioner to Shri Pankaj Lalji Shah, a photo-copy of Aadhaar card of Timmaya Shetty, husband of the respondent as also

Power of Attorney given by the respondent to him, are annexed. The consent terms are taken on record and marked 'X collectively' for identification.

4. Under the consent terms, the applicant/defendant tenant admitted and confirmed receipt of Rs.6 Lakhs by cheque No.739862 dated 3.7.2019 drawn on Canara Bank, Andheri West SSB Branch in favour of his Constituted Attorney Pankaj Lalji Shah, subject to realization, from the respondent/plaintiff landlady. The applicant has submitted to the judgment and decree dated 3.11.2015 passed by the learned trial Judge in R.A.E. & R. Suit No.39/57 of 2007 and the judgment and decree dated 22.11.2018 passed by the Appellate Bench of the Small Causes Court in Appeal No.483/2015. The applicant has handed over vacant and peaceful possession of room No.12, on the fourth floor, Kesar Niwas, 40/46, Picket Road, Mumbai – 400 002 (for short, 'suit premises') to the respondent/plaintiff landlady. It is further agreed between the parties that the order dated 20.6.2019 passed by the Small Causes Court in Marji Application No.115/2019 be set aside and the respondent-landlady may be permitted to withdraw the compensation amount deposited vide order dated 28.3.2016 passed below Exhibit-6 in Appeal No.483/2015 in R.A.E. & R. Suit No.39/57 of 2007. The applicant has undertaken that hereafter neither the applicant nor his heirs and legal representatives shall have any right or claim of whatsoever nature in respect of the suit premises or any part thereof.

5. Shri Pankaj Lalji Shah, the Constituted Attorney of the applicant has undertaken to this Court that he is empowered by the applicant to enter into

this consent terms and to act on his behalf as stated in Power of Attorney dated 21.12.2006. He has undertaken to hand over said original Power of Attorney dated 21.12.2006 to the respondent/plaintiff-landlady within two weeks from today and he shall not act upon the said Power of Attorney and the same may be treated as cancelled. The parties have further prayed for dismissal of the C.R.A. as withdrawn in view of the consent terms. Mr. Hegde confirms receipt of the key of the suit premises.

6. After perusing the consent terms, I am satisfied that the controversy between the parties is lawfully settled. The tenancy of the applicant/defendant stands extinguished. The applicant/defendant has accepted the correctness of the impugned orders passed by the Courts below. The undertakings given by the applicant in paragraphs-4 and 5 are accepted.

7. In view thereof, Civil Revision Application is dismissed as withdrawn in terms of the consent terms. The respondent is permitted to withdraw the compensation amount deposited vide order dated 28.3.2016 below Exhibit-6 in Appeal No.483/2015 unconditionally.

8. All concerned parties, including the Small Causes Court, to act upon the authenticated copy of this order. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)