

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

CIVIL REVISION APPLICATION NO.485 OF 2019

Balkrishna Ramchandra Mishra ... Applicant

Versus

Kumari Maniben Devraj Shah

And Others ... Respondents

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Ms. Poonam P. Madhwani for the Applicant.

Mr. Kunal Bhanage for Respondent No.1.

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CORAM : S.C. GUPTE, J.

DATE : 3 SEPTEMBER 2019

P. C. :

. Heard learned Counsel for the parties.

2 This Civil Revision Application challenges an order passed by the Appellate Bench of the Court of Small Causes at Mumbai. The application arises out of an eviction suit filed by Respondent No.1 (original plaintiff). The eviction suit was on the ground of unauthorized change of user and unlawful subletting of the suit premises by the Applicant (original defendant no.1(e), who was a tenant in respect of the suit premises). Whether the Appellant in fact changed the user of the premises, that is to say, from residential to business or commercial user, and whether the Appellant unlawfully sublet the suit premises or any portion thereof to defendant no.2 and was profiteering therefrom, are pure questions of facts. On these

questions, two courts below have concurrently found against the Appellant. The courts have accepted the case of Respondent No.1 that the suit premises were let out for residence and that a substantial part of the suit premises was being used for business or commercial activities. Even as regards the sub-tenancy, the courts below have accepted the case of Respondent No.1 that there was unlawful sub-letting of the premises. The case of the Appellant was that the sub-letting was with the consent of the previous owner. The courts below have considered the matter and come to a conclusion that there was no written consent for induction of any sub-tenant in the suit premises and that, accordingly, the sub-letting was an illegal. These are clearly conclusions supported by evidence and are reasonable.

3 Learned Counsel for the Appellant submits that the suit premises consist of agricultural land and that the suit was, in the premises, not maintainable under the Rent Act. No such ground appears to have been urged before the Appellate Court. No such point for determination was framed by the Appellate Court. The argument before the Appellate Court appears to have been that the suit premises were situated in an area declared as a slum under Section 4A of the Maharashtra Slum Areas (Improvement, Clearance & Redevelopment) Act, 1971. That case appears to have been duly considered by the Appellate Court. The court found that though the concerned area was originally declared as a slum by a Gazette Notification dated 15 June 1978, by way of corrigendum, the CTS number was corrected and the area declared as slum under Section 4A of that Act no longer

included the area in which the suit premises were situate. Even this conclusion is supported by evidence and cannot be faulted.

4 There is, accordingly, no infirmity with the impugned order. The courts below do not appear to have exceeded jurisdiction or committed any impropriety whilst exercising jurisdiction. The conclusions drawn by the courts below are fair and reasonable and are supported by evidence and cannot be termed as either perverse or impossible.

5 There is, accordingly, no merit in the revision application. The Civil Revision Application is dismissed.

(S.C. GUPTE, J.)