

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

CIVIL REVISION APPLICATION NO. 465 OF 2019

M/s.Jayseet Diamonds	...Applicant/Orig.Defendants
Vs.	
Hasmukh Dipchand Gardi & Ors.	...Respondents/Orig.Plaintiffs

Mr.Ruchir Tolat I/b. L.C. Tolat & Co. for Applicant.
Mr.Sanjay K. Gunjkar I/b. Jaydeep Deo for Respondents.

CORAM : S.C. GUPTE, J.

DATE : 19 AUGUST 2019

P.C. :

This civil revision application challenges a judgment and order passed by a Trial Judge in the Court of Small Causes on a MARJI application dismissing the notice taken out by the Defendants to the suit, who are Applicants in the civil revision application, under Order 9 Rule 13 of the CPC for setting aside an *ex parte* decree. An appeal preferred by the Applicants from that order was dismissed by the Appellate Bench of the Court of Small Causes. These orders have been challenged in the civil revision application.

2 By an order dated 5 August 2019, the court noted the suggestion of the Applicants to handover possession to the Respondents (original Plaintiffs) so that they could be permitted to file written statement and contest the suit on merits *inter alia* by adducing evidence. The civil revision application was accordingly stood over. By a further order passed on 7 August 2019, this court noted the statement of learned Counsel for the Applicants that possession of the suit premises would be

handed over to the Respondents on or before 16 August 2019. The court observed that if the possession was handed over, the impugned order would stand set aside and the R.A.E. & R. Suit No.275/404 of 2003 would restore to the original position before the trial court. The directions concerning filing of the written statement and adducing of evidence were also made part of the order of 7 August 2019. The matter was circulated to today's date for reporting compliance.

3 Learned Counsel for the Applicants submits that in accordance with the order dated 7 August 2019, possession of the suit premises has been handed over to the Respondents. Learned Counsel for the Respondents confirms this.

4 Accordingly, the suit, namely, R.A.E. & R. Suit No.275/404 of 2003 stands restored and the directions contained in para 4 of the order of 7 August 2019 shall follow. Since the suit is of 2003, the trial court is requested to dispose of the suit as expeditiously as possible, preferably within a period of one year of the written statement being filed by the Applicants (original Defendants) herein. It is clarified that in case the suit is decided in favour of the Applicants herein (original Defendants), the possession handed over to the Respondents in terms of the order dated 7 August 2019 shall be restored to the Applicants. The Civil Revision Application is disposed of accordingly.

(S.C. GUPTE, J.)