

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL REVISION APPLICATION NO. 800 OF 2013

Samar Vijay Pupala & Anr.

.. Petitioners

Vs.

Pratap Narsingrao Pupala & Ors.

.. Respondents

Ms. R. C. Nichani for the Petitioners.

CORAM : PRADEEP NANDRAJOG, C.J.

DATE : 25th JULY, 2019.

P. C. :

1. Heard learned Counsel for the Petitioners.
2. The Petitioners along with Smt. Sudhabai Narsingrao Pupala, Nandkumar Narsingrao Pupala, Pratap Narsingrao Pupala, wife and daughters of Surendra filed a suit for ejectment of the legal heirs of one Nandkishore Mehra alleging that Nandkishore Mehra was inducted as a tenant in the subject premises and was in arrears of rent. Additionally he had acquired an alternate accommodation. After the suit was filed, the Defendants surrendered possession to Vijay Narsingrao who was Plaintiff No.2.
3. An application under Order 7 Rule 11 was filed to reject the plaint on the plea that possession being surrendered, nothing survives for adjudication. The Co-plaintiff took the stand that the status of Plaintiff No.2 would be that of a sub-tenant and thus, prayed that the plaint need not be rejected. The impugned order dated 21.06.2013 is against

the Petitioners requiring the suit to be dismissed.

3. Suffice it to state that once the tenant has surrendered the possession to a co-owner, in a suit for ejectment against the tenant nothing survives and if the co-owners have an *inter se* issue the same has to be resolved in a proper civil proceeding.

4. The Civil Revision Application is disposed of declaring that nothing survives for adjudication in the suit which is disposed of as infructuous.

[CHIEF JUSTICE]