

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL REVISION APPLICATION NO.573 OF 2018

Vijay Ramchandra Bagalkote	]	Applicant
Vs.		
Vijaykumar Raghunath Kulkarni	]	Respondent

.....

Mr. Shashank C. Mangle, for the Applicant.
Mr. Yuvraj P. Narvankar, for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 28TH JANUARY, 2019.

P.C.

Heard Mr. Mangle, learned Counsel for the applicant and Mr. Narvankar, learned Counsel for the respondent at length.

2. By this application under section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C'), the applicant, hereinafter referred to as 'defendant' has challenged the judgment and decree dated 2nd March, 2016 passed by the learned 9th Joint Civil Judge, Junior Division, Kolhapur in Regular Civil Suit No.2050 of 2012 as also the judgment and decree dated 24th July, 2018 passed by the learned District Judge-1, Kolhapur in Regular Civil Appeal No.115 of 2016. By these orders, the Courts below decreed the suit instituted by the respondent, hereinafter referred to as 'plaintiff' under section 16 (1) (g) of the Maharashtra Rent Control Act, 1999 (for short 'Act') and directed the defendant to hand over vacant and peaceful possession of Shop

No.4 admeasuring 11' x 7' square feet area situate in property bearing C.S. No.2703/C, 'A' Ward, Kolhapur (for short 'suit premises') to the plaintiff.

3. Rule. Mr. Narvankar waives service. Having regard to the narrow controversy raised in this application as also at the request and by consent of learned Counsel for the parties, Rule is made returnable forthwith and the Application is taken up for final hearing.

4. The matter was heard for quite some time. Mr. Narvankar states that son of the respondent, Yogendra Vijaykumar Kulkarni is present in the Court. He has tendered photo copy of his Aadhar Card, which is taken on record and marked 'X' for identification. He states that Yogendra Vijaykumar Kulkarni has authority to make statement on behalf of the respondent. Upon taking instructions from him, he submits that by consent, order passed by the learned District Judge may be set aside and the learned District Judge may be directed to dispose of the appeal in a time bound manner keeping all contentions of the parties on merits open.

5. In view thereof, by consent of the parties, order dated 24th July, 2018 passed by the learned District Judge-1, Kolhapur in Regular Civil Appeal No.115 of 2016 is set aside. Regular Civil Appeal No.115 of 2016 is restored to the file of the learned District Judge to its original position along with interim relief.

6. The parties assure that they will appear before the learned District Judge Kolhapur on 4th February, 2019 and for that purpose, no fresh notice be issued to them. The learned District Judge shall fix the suitable date and will dispose of the appeal as expeditiously as possible and, in any case, within three months from fixing the suitable date of hearing.

7. It is made clear that I have not examined merits of the case. All contentions of the parties on merits are expressly kept open. Rule is made absolute in the aforesaid terms with no order as to costs.

[R.G. KETKAR, J.]