

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL REVISION APPLICATION NO. 584 OF 2018**

Giju Shantilal Waghela

.....Applicant.

Vs.

Mahendra Builder,
Partnership Firm

.....Respondent.

Mr. Vikram N. Walawalkar a/w Mr. Sujit Suresh, Amey C. Sawant i/by
Suresh M. Sabrad for the Applicant.

Mr. Atul Damle, Senior Counsel i/by S.A. Bhagwat for the Respondent.

Mr. Bipin Waghela, son of the Applicant present.

CORAM : A. S. GADKARI, J.

DATE : 11th NOVEMBER, 2019.

PC.:-

Heard the learned counsel for the respective parties.

2 After hearing learned counsel for the Revision Applicant at length, when this Court expressed its disinclination to grant any relief, learned counsel, on instructions from Mr. Bipin Waghela, son of the Applicant who is personally present in the Court, seeks leave to withdraw the present Application unconditionally.

Learned counsel on instructions, further submitted that, the Applicant may be granted six months time from today to vacate and hand over peaceful possession of the suit premises to the Respondent.

3 Mr. Damle, learned senior counsel for the Respondent, on instructions, fairly accepted the said suggestion.

4 The Applicant is granted six months period from today to vacate and hand over peaceful possession of the suit premises namely Garage No.1, admeasuring about 185 sq. ft. situated on the ground floor of the building “CLIFFLET”, Sir Pochkhanwalla Road, Worli, Mumbai to the Respondent and/or to his legally authorized representative, without seeking further extension on any count in that behalf.

5 The Applicant shall file usual undertaking/Affidavit in this Court about his occupation in the suit premises and the period of vacating the suit premises in furtherance of present order within a period of three weeks from today.

 The Applicant in his undertaking shall clarify that, how many adult members are residing with him in the suit premises.

 Till the Applicant vacates the suit premises, in the interregnum, the Applicant and/or his other family members shall not create any third party rights, title or interest in the Suit premises.

 All the adult family members residing along with the Applicant shall also file their independent and individual undertakings-Affidavits in this Court incorporating therein that:-

- a) they are in possession and nobody else is in possession of the suit premises;
- b) they shall not claim any equity in the matter or succession through the Applicant claiming any right, title or interest in the suit

premises.

c) the said undertakings/affidavits be filed within a period of three weeks from today.

It is further made clear that, if the Applicant and/or his family members fail to file the said undertakings/Affidavits in the Registry of this Court within a period of three weeks from today, the Respondent will be at liberty to execute the decree passed by the Small Causes Court at Mumbai in L.E. & C. Suit No. 74/98 of 2009 and confirmed by the Appellate Court without further reference to this Court.

5 In view thereof, the Revision Application is dismissed as withdrawn, in the aforesaid terms.

(A.S. GADKARI, J.)