

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

**CIVIL APPLICATION NO.956 OF 2016
IN
WRIT PETITION NO.4421 OF 1992**

Popatlal Manilal Shah (dead)
through Lrs.
Smt.Kanchanben Popatlal Shah & ors. ... Applicants
Vs
Vatsalabai Vishwanath Yadav (dead)
through Lrs
M/s.Solanki Jeweller
through its parners,
Ghisulal Juharmal Solanki and ors. ... Respondents
...
Mr.Yuvraj Gharal i/b. Mr.Vijay Killedar for the applicants.
Mr.Ashutosh R. Gole for respondent no.2.
...

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 18th JULY 2019.

P.C. :

The applicant is a tenant. He filed the writ petition in 1992, but the dispute has its genesis in the 1980s. The respondent-landlord filed a suit for eviction but could not succeeded. The trial Court dismissed it on 28th October 1989. Aggrieved, the landlord filed an appeal, which was allowed on 2nd September 1992. Then, the tenants filed this writ petition. As it emerges from the record and rival contentions, I gather this writ petition was dismissed in 2003, in 2011, and finally in 2014.

2. On the earlier two occasions—that is, in 2003 and 2011—this Court was indulgent enough to restore the writ petition to the file. By force of habit, it seems, the tenants kept on absenting themselves. Eventually, this Court was constrained to dismiss the writ petition for default in 2014—for the third time.

3. True, the applicant-tenants claim to have filed the restoration application on 20th November 2014, but it seems to have been numbered in 2016. Again, to his day, they made no efforts to have the matter considered by this Court.

4. A case is not a Phoenix to be revived, every time, from the litigious ashes of dismissal. I find no merits on the plea advanced by the applicants' counsel to have the writ petition restored.

I, accordingly, dismiss the civil application.

(DAMA SESHADRI NAIDU, J.)