

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.23 OF 2018

S. Prabhakar (decd) through LRs
Sushila P. Mundapat (dead)
Suryaprakash P. Mundapat and others ... Applicants
Vs.
Gajanan Govind Raut (dead) through LRs
Ravindra Gajanan Raut and another ... Respondents

Mr. Amit B. Borkar a/w. Mr. Ajinkya Badar for Applicants.
Mr. Nusrat Shah a/w. Ms Ema Almeida, Mr. Kevin Gala and Ms Samma Shah for Respondents.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 11, 2019

P.C. :

Heard Mr. Borkar, learned Counsel for the applicants and Mr. Shah, learned Counsel for the respondents at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C'), the applicants have challenged the judgment and decree dated 17.07.2017 passed by the learned Ad-hoc District Judge-1, Vasai in Regular Civil Appeal No.16 of 2007. By that order, the learned District Judge allowed the appeal preferred by the respondents and set aside the judgment and decree dated 25.09.1998 passed by the learned IInd Joint Civil Judge, Junior Division, Vasai in Regular Civil Suit No.271 of 1988. The learned District Judge decreed the Suit and directed the defendants to hand over possession of property bearing Municipal House No.68/8, a one storied house consisting of 3 rooms on the first floor (for short 'suit premises'). It is against this order, the applicants have preferred the Civil Revision Application.

3. Mr. Borkar submits that applicant No.1/2- Suryaprakash P. Mundapat is present in the Court. He has tendered photocopy of his PAN Card, which is taken on record and marked 'X' for identification.

Upon taking instructions from him, he states that applicants will not press this Application, if time of one year to vacate the suit premises is given to them for handing over and vacating the suit premises to the respondents. Mr. Borkar submits that applicants and all adult family members residing in / using the suit premises will file usual undertaking within 2 weeks in this Court with advance copy to the other side. He also assures that applicants will go on paying rent / compensation regularly for each month on the 10th day of next succeeding month.

4. In view thereof, C.R.A. is disposed of as not pressed in the following terms:

- a. Applicants accept correctness of the impugned order;
- b. Tenancy of the applicants in respect of the suit premises stands terminated;
- c. Applicants and all adult family members residing in / using the suit premises will file undertaking within two weeks from today with advance copy to the other side, incorporating therein that,
 - (i) They are in possession and nobody else is in possession of the suit premises;
 - (ii) They have neither created third party interest nor parted with possession of the suit premises;
 - (iii) They will hereafter neither create third party interest nor part with possession of the suit premises;
 - (iv) They will clear the arrears of rent, if any, within 2 weeks from today and will go on paying rent till 31.01.2020 or till handing over of possession, whichever is earlier;
 - (v) They will hand over vacant and peaceful possession of the suit premises to the respondents on or before 31.01.2020;
 - (vi) They will not seek further extension of time for handing over possession;

5. List the Application for 'reporting compliance' on 01.02.2019.

(R. G. KETKAR, J.)