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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.57 OF 2019**

Shitla Prasad Satyanarayan Sharma
and Others

.... Applicants

V/s

Avdesh Kumar Visvakarma and Others

..... Respondents.

Mr. Rajaram P. Lote for the Petitioner.

Mr. Uzair Kazi a/w Mr. A.A. Mirza for Respondent No.1.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 14, 2019

P.C.:-

1] This Revision is by the original Defendant Nos. 2 to 4A against the Judgment and Decree passed by the Civil Judge, City Civil Court, Dindoshi, Borivli Divn. in S.C. Suit No.422 of 2006 whereby the present Applicants, pursuant to the decree passed, were directed to handover possession of the suit property.

2] The submissions are, the impugned Judgment and the Order is not sustainable, particularly when the learned Court below has failed to appreciate the pleadings and evidence on record, so as to answer the issue as regards entitlement of possession pursuant to the earlier

dispossession. The additional submission is, in RAD Suit No. 2 of 2006, a prayer for restoration of possession against the land owner was already rejected by the Court of Small Causes vide order dated December 18, 2006.

3] While countering the aforesaid submissions, learned Counsel for the original Plaintiff i.e. Respondent No.1 herein, would invite attention of this Court to the detail evidence recorded on the issue of dispossession and consequential order of restoration of possession. In support of the claim put-forth by the Respondent No.1-Plaintiff, he had examined himself at Exhibit-12 and was further subjected to cross-examination. It was established by him that the suit premises were given to him by Defendant No.1 and present Applicants some 25 years ago and he was forcibly dispossessed on 17/01/2006. P.W. 2 – Ramjatan Rajaram Benbansi and P.W.3 - Sharma Priyanka Harinath have supported case of the Respondent No.1 – Plaintiff.

4] As far as present Respondent No.2 – Ramraj Nanuram Visvakarma i.e. original Defendant No.1 is concerned, he was examined as D.W.1 at Exhibit-35 in the suit. He has admitted the

possession of non-applicant/Plaintiff. Though D.W. 2- Shitla Prasad i.e. present Applicant No.1 and D.W. 3 – Deviprasad i.e. present Applicant No.2 had tried to resist the claim, the Trial Court upon analysis of oral and documentary evidence on record, including that of the finding recorded in RAD Suit No. 2 of 2006, inferred that the present Applicants have dispossessed the original Plaintiff and has proceeded to pass the order of restoration of possession. The order of restoration of possession preceded with a finding that the present Applicants have dispossessed the original Plaintiff who was in settled possession of the suit property as could be inferred from the oral and documentary evidence.

5] In the aforesaid background, no error of law or jurisdiction could be noticed in the order impugned, which warrants interference in revisional jurisdiction of this Court. Revision Application lacks merits and the same stands dismissed.

(NITIN W. SAMBRE, J.)