

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 59 OF 2019****IN****CIVIL REVISION APPLICATION NO. 633 OF 2018**

Saroj Wd/o. D. D. Bhuta and Ors. ... Applicants.

In the matter between :-

Jayshree Shantilal Sanghavi and Ors. ... Applicants.

V/s.

Saroj Wd/o. D. D. Bhuta and Ors. ... Respondents

Ms. I. S. Memon i/b. S. I. Memon, Advocate for Applicants.

Mr. Girish Godbole a/w Mr. Sumit Kothari & Mr. Aditya Shirke for Respondents in CAC No. 59/2019 and Applicants in CRA No.633/2018.

CORAM : A.S. GADKARI, J.

DATE : 3rd DECEMBER, 2021.

PC. :

1. It is an admitted fact on record that, the Revision Applicants have failed to comply with the directions issued by this Court by its Order dated 19th July 2021 and in particular para No.8 thereof.

2. The present Application was heard on 1st December 2021 at length. In view of the deliberations which took place on 1st December 2021, Mr. Godbole, learned counsel on instructions from Respondent No.2 Rajendra Shantilal Sanghavi had submitted before this Court that, the Revision

Applicants are unable to comply with the directions due to financial constraints. He on instructions had further submitted that, the Revision Applicants will vacate suit premises on or before 5 p.m. of 8th December 2021. This Court had accordingly directed the Revision Applicants to file their respective Affidavits. It was pointed out to this Court that, the Revision Applicant No.4 Mr. Devendra Praful Sanghavi is stationed at America and therefore his Affidavit may be dispensed with. This Court therefore had orally directed that, the Affidavit of Mr. Devendra Praful Sanghavi duly affirmed before a Competent Authority in America, be called for through fax or e-mail and the same can be produced before this Court today and the original copy of it can be subsequently produced on record.

3. Today, the learned counsel for the Revision Applicants have tendered across the bar Affidavits of five persons, namely, Mrs. Jayshree Shantilal Sanghavi (Revn. Appli. No.1.), Mr. Rajendra Shantilal Sanghavi (Revn. Appli. No.2), Mrs. Rajarani Praful Sanghavi (Revn. Appli. No.3), Ravindra Praful Sanghavi (Revn. Appli. No.5) and Mr. Harshad Shantilal Sanghavi (Revn. Appli. No.6).

As far as Affidavit of Mr. Devendra Praful Sanghavi (Revision Applicant No.4) is concerned, learned counsel, on instructions submitted that, he has simply sent a letter and has refused to submit an Affidavit before this Court. It thus appears that, the said Revision Applicant No.4 is not interested

in pursuing Civil Revision Application filed by him.

4. Learned counsel for the Respondent-landlord on instructions submitted that, the said person is not in physical possession or occupation of the suit premises as of today and has been impleaded in the said suit as a legal heir of Mr. Praful Sanghavi.

5. As noted earlier, the Revision Applicants have failed to comply with Order dated 19th July 2021 and the persons occupying suit premises today have filed Affidavits in this Court, thereby giving undertakings to this Court to vacate and handover peaceful possession of suit premises in favour of landlord on or before 5 p.m. of 8th December 2021. The said Affidavits are taken on record and marked 'X', 'X-1', 'X-2', 'X-3' and 'X-4' collectively.

6. It is made clear that, the Revision Applicants have vacated the suit premises on the ground of non-compliance of Order dated 19th July 2021 and not as and by way of execution of final Decree. It is made further clear that, if the Revision Applicants finally succeed in the Revision Application, they will be entitled for restoration of possession of suit premises admeasuring 2740 sq.ft. at the suit site on rental basis only and nothing more than it.

7. It is needless to mention that, if the the Revision Applicants succeed in the present Revision Application, in addition to the contractual rent they will have to pay market rent as may be decided by this Court at the time of final decision of present Revision Application.

8. In the interregnum, if the Respondent-landlord inducts any other person, entity or Corporation in the suit premises as a tenant, licensee or lessee, the Respondent-landlord shall inform the pendency of the present Revision Application to the concerned person and shall also incorporate specific clause in the said agreement to that effect.
9. Civil Application No.59 of 2019 is accordingly disposed off.

[A.S. GADKARI, J.]

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