

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.27 OF 2022

Sunil Sitaram Jaiswal

... APPLICANT

VERSUS

Nasroddin Firojoddin Kazi

... RESPONDENT

.....
Mr. A.S. Jadhav, Advocate holding for
Mr. P.R. Katneshwarkar, advocate for applicant
Mr. N.R. Shaikh, Advocate for respondent
.....

CORAM : R. G. AVACHAT, J.

Date of reserving order : 14th June, 2022

Date of pronouncing order : 6th September, 2022

ORDER :

Heard. The challenge in this revision application is to a judgment and order dated 10/12/2021, passed by District Judge-1, Bhusawal, District Jalgaon in Regular Civil Appeal No.76/2017, whereby the decree dated 17/11/2017, passed by the Court of 3rd Jt. Civil Judge, Junior Division, Bhusawal in Regular civil Suit No.167/2015 came to be affirmed. As such, it is a case of concurrent findings of facts. It is a decree for possession of the suit premises. The ground of eviction was default in payment of rent. The applicant herein is the original defendant (tenant).

2. The learned counsel for the applicant would submit that, the suit premises belonged to ex-wife of the respondent. The respondent did not have authority to receive the rent of the suit premises. The suit was filed by the respondent alone. The same was not maintainable since he did not have locus-standi to file such suit. The applicant has paid all the rent. No rent receipts have ever been issued. On receipt of suit summons, the applicant deposited four months' rent in the trial Court. Monthly rent was Rs.600/- and not Rs.1500/- as claimed by the respondent. According to learned counsel, both the Courts have not taken into consideration the aforesaid facts and circumstances of the case and thereby the impugned judgment and decree has been rendered perverse. He, therefore, urged for allowing the revision application.

3. The learned counsel for the respondent would, on the other hand, submit that, although the premises belonged to the ex-wife of the respondent, the averments in the written statement and applicant's oral evidence would undoubtedly indicate that the respondent would look after the suit premises and the applicant used to pay him rent. According to learned counsel, in view of the definition of 'landlord' given

in Section 2(a) of the Maharashtra Rent Control Act, the respondent is a landlord. A rent note was executed between the two. The recitals thereof would indicate the monthly rent was Rs.1500/-. Although the rent agreement was unregistered, the same could be read in evidence for collateral purpose. According to the learned counsel, it is a case of concurrent findings of facts. The scope of revisional jurisdiction is limited one. The impugned judgment and decree is based on evidence produced in the suit. He, therefore, urged for rejection of the revision application.

4. Considered the submissions advanced. Perused the pleadings and the evidence relied on. Admittedly, the applicant is in possession of the suit premises as a tenant. According to him, the monthly rent was Rs.600/-. The unregistered rent agreement would, however, indicate the monthly rent is Rs.1500/-. It is true that the suit premises belongs to the respondent's ex-wife. The respondent admitted to have given her Talaq. He also admitted to have not made any provision for her maintenance. He did not place on record any written authority indicating him to have been authorised by the landlady to collect the rent.

5. The applicant has, in his oral evidence, admitted

that the respondent was looking after the affairs of the suit premises. He (applicant) would pay him monthly rent. In the written statement as well, it has been specifically averred that the applicant has paid the respondent all the rent and nothing was in arrears. Relying on the judgment of this Court in case of **Mohd. Shakil Mohd. Yunus Vs. Chandrabali Ramai Gupta** reported in **2014(5) Mh.L.J. 206**, in which the Court observed that, unregistered rent agreement could be looked into for collateral purpose. It has, therefore, been observed that, the monthly rent was Rs.1500/-. The statutory demand notice returned unserved with a remark "Not claimed". The respondent deposited Rs.2400/- in the trial Court on receipt of suit summons. Both the trial Court and the appellate Court, on appreciation of the factual matrix, have concurrently held the applicant to have been a defaulter and, therefore, liable to be evicted. The findings recorded by both the Courts are consistent with the evidence obtainable in the case. No interference with the impugned judgment and decree is, therefore, warranted in exercise of revisional jurisdiction. The Civil Revision Application, therefore, fails. It is dismissed.

(R. G. AVACHAT)
JUDGE

fmp/-