

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL REVISION APPLICATION NO. 66 OF 2022****WITH****IA NO.963 OF 2022****IN****CIVIL REVISION APPLICATION NO. 66 OF 2022**

Hansraj Bihari Dhobi

.....Applicant.

Vs.

Nitin Samel & Ors.

.....Respondents.

Mr. A.B. Vagyani i/by Kanchan Chindarkar with Mr. P.P. More for the Applicant.

Mr. Pankaj Pandey a/w Mr. Sumit Nagda for the Respondent No.1.

CORAM : A. S. GADKARI, J.**DATE : 7th MARCH, 2022.****PC:-**

Present Revision Application under Section 115 of the Code of Civil Procedure, (for short, “CPC”) is preferred by the Original Plaintiff against the impugned Judgment and Order dated 21st January, 2022 in R. Appeal No.109 of 2017 arising out of R.A.D. Suit No.67 of 2008 by the Appellate Bench of the Court of Small causes at Mumbai, (Bandra Branch) dismissing the said R.Appeal preferred by the Applicant and confirming the Judgment and Order dated 1st July, 2017 passed by the Trial Court in the said R.A.D. Suit No.67 of 2008.

2 Heard Mr. Vagyani, learned counsel for the Applicant and Mr. Pandey, learned counsel for the Respondent. Perused entire record.

3 Record reveals that, Applicant had filed the said R.A.D. Suit No.67 of 2008 in the Court of Small Causes at Mumbai, (Bandra Branch) for declaration that, he is a lawful tenant in respect of the suit premises; permission to deposit the arrears of rent; permanent injunction restraining the Defendant No.1 for disturbing the lawful enjoyment and possession of the Plaintiff over the suit premises. The description of the suit premises is specifically mentioned in paragraph No.1 of the plaint.

4 It is the contention of the Applicant that, he was lawful tenant of Respondent No.2. That, the suit property was subsequently purchased by Respondent No.1 by a registered Conveyance Deed dated 29th December, 2006 (Exh-60) and therefore he became tenant of Respondent No.1. It is the further contention of the Applicant that, upto the year 2007, the Respondent No.2 accepted rent from the Applicant towards the suit premises. After the transfer of the suit property, the Respondent No.1 stopped accepting rent and in this brief premise, the said Suit was filed.

5 It is an admitted fact on record that, while transferring the suit premises in favour of Respondent No.1 by Respondent No.2, in the list of tenants, the name of Applicant is not mentioned. Even in the letter of Attornment dated 8th January, 2007, executed by Respondent No.2, giving intimation to all the tenants of '*Kalmeshwar Niwas*', the name of the Applicant is also not reflected. It is thus clear that, the erstwhile owner i.e. Respondent No.2 did not recognize and acknowledge the Applicant as his

tenant. In furtherance of Deed of Conveyance after the suit property was devolved to Respondent No.1, the Respondent No.1 also did not accept the Applicant as his lawful tenant.

The evidence on record clearly indicates that, the Applicant has failed to prove his case by leading cogent evidence to arrive at a conclusion based on preponderance of all probabilities that, the Applicant was and is in fact a tenant in the suit premises now owned by Respondent No.1.

6 Both the Courts below have held that, the Applicant has failed to prove that he is a lawful tenant in the suit premises and no relationship as landlord and tenant exists between the Applicant and Respondents. There are concurrent findings recorded by both the Courts below.

7 After perusing the entire record, this Court is of the considered view that, both the Courts below have not committed any error either in law or on the facts while passing the impugned Judgments and Orders. No material irregularities or illegalities can be found with the impugned Judgments and Orders.

Revision Application being dehors of merits, is accordingly dismissed.

8 In view of dismissal of the Revision Application itself, nothing survives in Interim Application No.963 of 2022 and is also disposed off.