

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1596 OF 2022
IN
FIRST APPEAL NO. 1344 OF 2009

Ramchandra Narayan Patil and Anr ... Applicants

Versus

Mr. Dattu Yeshwant Patil and Ors ... Respondents

Adv. Mr. Sandip J. Ghogre for Applicant in IA and for Respondent No.4-
and 5 in FA

Adv. Mr. Ajit S. Hodage h/f P.G. Karande for Appellant in FA

Ad. Mr. G.B. Walawalkar i/b Adv. S.P. Thorat for MHADA- Respondent
No.3

CORAM : ANUJA PRABHUDESSAI, J
DATE : 15th JULY, 2022

P.C. :

1. The plaintiff in Short Cause Suit No. 6842 of 2002, had challenged the Judgment and Decree dated 12.05.2009. By the impugned Judgment the learned Judge, City Civil Court, Greater Mumbai has dismissed the suit filed by the plaintiff.

2. The dispute in the suit was in respect of Room No. 301 on 3rd

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floor of Mangal Murti Society, N.M.Joshi Marg, Mumbai. The plaintiff had claimed that he was entitled for permanent accommodation of the suit room, since he was earlier tenant of Room No. 39 in Bori Chawl No.7, N.M. Joshi Marg, Mumbai. The learned Judge dismissed the suit on the ground that the plaintiff had failed to prove that he was a tenant of Room No.39 and that he was entitled for permanent possession of suit Room No.301.

3. By Order dated 21st November 2009, this Court had observed that the name of the plaintiff was recorded with MHADA as a tenant of Room No. 39. This Court further observed that the Defendant Nos. 4 and 5 are in possession of the suit room. This Court therefore appointed Receiver in respect of the suit room, and the Receiver was directed to appoint the Applicants i.e. Defendant Nos.4 and 5 as Agents of the Receiver on payment of royalty pursuant to the said order. The Court Receiver has appointed Defendant Nos.4 and 5 as his agents on payment of royalty of Rs.8000/- per month.

4. Order dated 29th April, 2022 reveals that the learned Counsel representing Defendant Nos. 4 and 5 had brought to the notice of the Court that the sole appellant had expired in September 2020 and that

the appeal has abated since the legal representatives were not brought on record. Hence leave was granted to the Defendant Nos.4 and 5 to renew the request. Since the legal representatives of deceased Plaintiff are still not brought on record, Defendant Nos.4 and 5 have filed this application for discharge of the Receiver and return of royalty amount paid to the Receiver.

5. The sole appellant has expired, and till date no application has been filed to bring on record the Legal Representatives and to set aside the abatement. Under the circumstances, the appeal stands disposed as abated.

(ii) The Court Receiver stands discharged without passing accounts.

(iii) The amount of royalty deposited by the Defendant Nos.4 and 5 (Respondent Nos. 4 and 5) with the Court Receiver, be returned to the Defendant Nos. 4 and 5 with interest, equally to the Defendant Nos.4 and 5, after deducting the Court Receivers cost charges from the suit account.

. Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)