

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 288 OF 2022

Jayprasad Sadanand Dubey @
Jayprakash Sadanand Dubey and Ors.

...Applicants

Vs.

Ramdas Sambhu Yadav and Ors.

...Respondents

....

Shri. Anil R. Mishra, for the Applicants.
Shri. Ram Singh, for the Respondents.

....

CORAM : NITIN W. SAMBRE, J.

DATED : 18th NOVEMBER, 2022

P.C.:

1. Heard.
2. On 26th June, 2009 the suit preferred by the respondent No. 1 to 4 being R.A.E and R. suit No. 18/33 of 2007 came to be decreed against which the execution was taken out by the respondents. The said execution was obstructed by the present applicants stating that they were lawfully inducted the suit property and as such, are entitled to continue in the suit premises.
3. The said Obstruction Notice No. 01 of 2011 was decided against the applicants thereby directing them to remove themselves from the

suit property. The applicants feeling aggrieved preferred an appeal vide Execution Appeal No. 03 of 2016 which was also dismissed on 9th March, 2022 as such, this Second Appeal.

4. The question of law which the learned Counsel for the appellant intends to canvass is the suit property is covered under the provisions of Maharashtra Slum (Improvement, Clearance And Redevelopment) Areas Act, (For short 'the Slum Act'). That being so, the applicants are already identified as the beneficiary in Annexure- 2. In such an eventuality the suit for eviction so also execution proceedings is not maintainable.

5. He further submits that applicants were inducted as a tenant by the late father of the respondent No. 1 to 4 and as such, the status of the applicants were that of lawful tenants.

6. The aforesaid contentions are objected and resisted by the learned Counsel for the Respondent decree-holder on the ground that the applicants have failed to establish their status as that of lawful tenant over the suit property.

7. I have appreciated the said submissions. The order dated 2nd August, 2013 passed by this Court in Writ Petition No. 10971 of 2011 in which notification in relation to the suit property under the

provisions of the Slum Act, appears to have been stayed as is canvassed by the learned Counsel for the respondents. It is further urged that the said stay was made absolute subsequently and the petition is disposed of.

8. The learned Counsel appearing for the applicants is not in a position to dispute the said position as regards the final disposal of the Writ Petition No. 10971 of 2011.

9. As such, the claim of the respondents/decreed-holders that the suit property is removed out the clutches of Slum Act appears to be quite justified.

10. In the aforesaid background, the question of law which is agitated by the applicant about the proceedings being moved unless the provisions of the Slum Act are liable to be rejected.

11. Apart from above the applicants have claimed that they were inducted as tenant by the deceased father of the decree-holder. So as to substantiate such rights it was expected of the applicants to produce on record the documentary evidence such as the rent agreement, the rent receipts etc. Not a single document is produced by the applicants on record to substantiate their claim that they were inducted as tenants in the suit property.

12. In the aforesaid background the concurrent findings recorded by both the courts below against the applicants do not call for any interference particularly when the applicants lack any involvement of law to substantiate their claim. Revision Application stands dismissed.

13. The execution of decree is stayed for a period of three weeks from today.

(NITIN W. SAMBRE, J.)