

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

CIVIL REVISION APPLICATION NO.398 OF 2017

Smt. Ramkuben Ramanlalji Jain
Since deceased through legal heirs
Mr. Mahendra Ramanlalji Jain & Ors. ..Applicants
Versus
Shri. Mahesh Ramesh Mehta ..Respondent

**WITH
INTERIM APPLICATION NO.743 OF 2022
IN
CIVIL REVISION APPLICATION NO.398 OF 2017**

Mahesh Ramesh Mehta ..Applicant

IN THE MATTER BETWEEN

Smt. Ramkuben Ramanlalji Jain
Since deceased through legal heirs
Mr. Mahendra Ramanlalji Jain & Ors. ..Applicants
Versus
Shri. Mahesh Ramesh Mehta ..Respondent

Mr. Surel S. Shah a/w Abhishek Deshmukh i/by Sanjiv Sawant,
for the Applicants.
Mr. Chandrakant P. Deogirikar, for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 15th JULY, 2022

P.C.

1. The applicant/tenant has furnished an undertaking which is taken on record and marked "X" for identification. The undertaking reads thus :-

"1. I, Mahendra Ramanlalji Jain, Age:61 years, residing at 44, Khattar Gali, Room No.14B, 4th floor, Near Thakurdwar, Girgaon, Mumbai-400004, the Applicant No.1 (a), do hereby state on solemn affirmation as under:

2. I say that, except me no one else is in possession of the suit premises and I further undertake to this Hon'ble Court to vacate the suit premises more particularly described in paragraph no. 1 of the present Application on following terms:

A. The Affiant undertake to vacate the suit premises possessed by them as tenants within One year from today and handover the vacant possession of the same to Respondent No. 1/Landlord.

B. The Affiant undertake that during period of One year, the Affiant will deposit the usual rent before the Ld. Small Causes Court, Mumbai on or before 5th day of each month till vacating the suit premises.

C. The Affiant will not cause any act which will be detrimental to the stability of suit premises.

D. The Affiant will not create any third-party rights of whatsoever nature in respect of suit premises, till he hands over the possession of the same.

Whatever stated in abovementioned paragraphs is true and correct to the best of my knowledge.

Hence the undertaking."

2. The applicant/tenant is personally present in Court and in response to the Court's query, he submits that he shall abide by the terms of undertaking given to this Court.

Similarly, the respondent/landlord is also personally present in Court and his lawyer consents accepting terms of the undertaking.

3. In view of above, the submissions of Mr. Surel Shah are, the revision be disposed in view of undertaking that the applicant/tenant shall surrender possession within one year i.e. by 8th July, 2023. Counsel for respondent/decreed holder has no objection to the said extent i.e. to continue him in possession of the suit premises and the decree for possession will not be executed will then.

4. As regards the claim put forth by the respondent/landlord in relation to the arrears of rent, the applicant has already undertaken that during the period of next one year till he enjoys the possession, he shall be depositing the rent before 5th day of each English calendar month in the Small Causes Court, Mumbai. However, it is clarified that as regards arrears of rent/compensation, if any, is concerned, it is open for the respondent/landlord to take appropriate steps for recovery of the same. The same will be decided without being influenced by the disposal of the present revision application.

5. The Revision Application as such stands disposed in terms of the undertaking and the liberty as above.

6. In view of disposal of Revision Application, interim application also stands disposed of.

[NITIN W. SAMBRE, J.]