

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

**INTERIM APPLICATION NO. 879 OF 2019
IN
CIVIL REVISION APPLICATION NO. 115 OF 2007**

Shri. Krishnakumar Girdharilal Gupta	...Applicant
IN THE MATTER BETWEEN	
M/s Industrial Trading Agencies & Ors.	...Applicants
Versus	
Shri. Krishnakumar Girdharilal Gupta	...Respondents

Ms. Hina A. Mody for the applicant
Adv. Zain Javed Shroff a/w. Ms Shaista Pathan i/b. Y & A Legal for
the respondent no. 1

CORAM : NITIN W. SAMBRE, J.

DATED : 3rd AUGUST, 2022

P.C.:

1. The Civil Revision Application No. 115 of 2007 is preferred by original defendant nos. 2, 3 and 4 to RAE Suit No. 94/633 of 1969.

The said suit was decreed with following observations:

"The defendants do handover the vacant and peaceful possession of the suit premises consisting of eastern portion of the suit premises consisting of eastern portion on the ground floor premises and the entire 1st floor from the immovable property i.e the building situated at 50 Bibijan Street Bombay-3 within three months.

The defendant no. 1 do pay an amount of Rs.968.24 ps being the arrears of statutory rent to the plaintiffs within three months.

The defendants jointly to pay the cost of the suit to the

plaintiffs and bear their own.

The plaintiffs are allowed to withdraw the amount as and when deposited by the defendants in the Court."

2. The judgment debtors i.e. defendants to the said suit preferred three appeals being Appeal No. 422 of 1999 i.e. by defendant nos. 6 to 8, 10 to 15, 17 to 19, the Appeal No. 545 of 1999 i.e. by defendant nos. 1 & 4 & Appeal No. 166 of 2000 i.e. by defendant nos. 3, 2 & 5. All these three appeals by common judgments & orders dated 01/02/2006 to 07/02/2006 were dismissed.

3. The Counsel for the plaintiff/judgment debtor submits that but for the appellants in Appeal No. 166 of 2000 referred above i.e. defendant nos. 3, 2 & 5 none of the judgment debtors have preferred any appeal.

4. According to her, this Court has admitted the present revision at the behest of the said defendants on 12/04/2007 and interim relief in terms of prayer clause (c) of the revision application was granted. The interim relief granted reads thus:

"19(c) - that pending the hearing and final disposal of the Civil Revision Application, the operation and/or execution and/or enforcement of the impugned decree dated 1st / 2nd February, 2006 passed in the said R.A.E. Suit No. 94/633 of 1969 as confirmed in the said Appeal Nos. 422 of 1999, 545 of 1999 and 166 of 2000 by the

Appellate Bench of the Court of Small Causes at Bombay
be stayed;"

5. She would urge that the aforesaid interim relief needs to be vacated as same was ordered without hearing the decree holder. Her further contentions are, if not, vacation of aforesaid interim relief, let there be a clarification that the interim relief shall be operational only to the extent of the applicants in the Civil Revision Application.

6. The counsel for the non-applicants i.e. appellants in Appeal no. 166 of 2000 would urged that he has no objection for restricting the interim relief to the extent of the protection of possession in his favour. He would further urge that if the decree holder executes the decree as there is no interim relief in favour of other judgment debtors, he has no objection. In response to the Court's query, he submits that he is in possession of the portion of the suit property on the ground floor only.

7. I have appreciated the aforesaid submissions.

8. The statement made by the counsel for the decree holder i.e. applicant in IA that the other judgment debtors have not preferred any revision or there is no operation of interim relief in favour of such judgment debtors is accepted.

9. The counsel for the applicant in IA informs that the decree was questioned at the behest of other judgment debtor in the revision which was already dismissed and as such the decree in favour of the present applicant stand confirmed.

10. As a sequel of above, it is clarified that interim relief ordered by this Court on 12/04/2007 is restricted only to the extent of applicant in revision. The said interim relief in my opinion since is in operation for last more than 15 years is directed to be continued till the decision of the revision.

11. Considering the joint request made by the parties the hearing of the revision is expedited. The revision application be added in the final hearing board in week commencing from 03/10/2022.

12. The application stands allowed.

(NITIN W. SAMBRE, J.)