

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 7940 OF 2018

Pramod Badrinarayan Jaju __ Vs. __ Hukmichand Champalal Bajaj

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.A.S.Dhore, Advocate for petitioner
Mr. S.C.Bhalerao, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.
DATE : 11/10/2022

1] Heard Mr. Dhore, learned counsel for the petitioner and Mr. Bhalerao, learned counsel for the respondent.

2] The respondent-landlord had filed the suit for ejectment, possession and arrears of rent being Small Cause Suit No. 7/2011, in which by judgment dated 18.8.2014, the learned Trial Court found that the defendant/petitioner was not in possession of the shop in question and so also that the defendant/tenant was not in arrears of rent and dismissed the suit. The learned Appellate Court by the impugned judgment dated 8.2.2018 (pg 12) has reversed the judgment of the Trial Court and dismissed the suit for ejectment and possession, having found that the plaintiff/respondent was in possession since 18.7.2011 and granted a decree for arrears of rent for the period July-2008 to June-2011.

3] Mr. Dhore, learned counsel for the petitioner submits that the possession of the suit premises was already handed over by the petitioner-tenant to the landlord in October-2006 itself and therefore, there was no question of any decree being passed regarding any arrears of rent. In order to substantiate this contention, he places reliance upon the evidence of plaintiff/respondent and specifically the cross examination.

4] A perusal of the cross examination would indicate that it does not support the contention of Mr. Dhore, learned counsel for the petitioner, as what is stated therein by the plaintiff/respondent is that he had obtained possession a year back and considering the affidavit in lieu of evidence was filed on 3.9.2012, the same cannot be related back to the year 2006. There is no other material on record to indicate delivery of possession at any point of time earlier to 18.7.2011, which the plaintiff admits to be the date on which he was placed in possession, considering which I do not see any reason to interfere with the impugned judgment. The petition is without any merit and is dismissed. No costs.

JUDGE

Rvjalit