

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

CIVIL REVISION APPLICATION NO.118/2017

1. Nagpur Nagrik Sahakari Bank Ltd.
Multi-Scheduled Bank, having its
office at Plot No.79, Dr. Ambedkar Chowk,
Central Avenue, Nagpur.
2. Authorised Officer, through
Nagpur Nagrik Sahakari Bank Ltd.
Branch at Panchasheel Talkies,
Amravati, Dist. Amravati.

.....APPLICANTS

...V E R S U S...

1. Uday Purushottam Gudadhe,
aged 54 years, Occ. Service,
r/o 7, Shubh Niketan Colony,
Rathi Nagar, Amravati, Tq.Dist.
Amravati.
2. Rajkishor Gunderao Jagatap,
aged about 58 years, Occ. Service,
r/o 7, Shubh Niketan Colony,
Rathi Nagar, Amravati, Tq.Dist.
Amravati.

...NON APPLICANTS

Mr. G. L. Aar, Advocate for petitioner.
Mr H. Verma, Advocate for respondent.

CORAM:- AVINASH G. GHAROTE, J.
DATED :- 27.07.2022

ORAL JUDGMENT

Mr. G. L. Agrawal, learned counsel for the applicant is
absent. None appears for the non applicants though served.

2. The present civil revision application challenges the order dated 03.05.2017 whereby the application under Order VII Rule 11 filed by the applicant/original defendant nos. 2 and 3, has been rejected.

3. I have perused the impugned order as well as the record. For the sake of convenience parties are referred to as they were before the trial Court. A suit has been filed by the plaintiff (non applicant no.1) against the non applicant no.2 and the revision applicants, being Regular Civil Suit No.88/2017, claiming that under an agreement dated 04.11.1995, he was inducted as a tenant in the suit premises as described in para 1 of the plaint (page 22), for which a security deposit of Rs.75,000/- was given and he is in occupation of the suit premises continuously as a tenant from 01.12.1995. The suit premises was mortgaged by the defendant no.1/non applicant No.2 herein with the defendant no.3 (applicant no.2 herein) in the year 2004. On account of default, proceedings under the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI Act) were initiated in pursuance to which the defendant nos. 2 and 3 attempted to take possession of the tenanted premises from the plaintiff, as a result of which, the suit

came to be filed, in which application under Order VII Rule 11 of the Code of Civil Procedure has been filed. The impugned order rejects the application, holding that the perusal of the record, prima facie, shows that the rent agreement between the plaintiff and defendant no.1 is dated 14.11.1995 of which the original copy was placed on record. The defendant no.1 has also admitted the said document, considering which in the light of the fact that the loan was availed by the defendant no.1 in the year 2004, the tenancy of the plaintiff, being prior in point of time, the suit filed by the plaintiff, seeking the protection under the Rent Act, cannot be said to be hit by the provisions of the SARFAESI Act.

4. That being the position, I do not see any reason to interfere in the impugned order dated 03.05.2017. The revision is therefore dismissed. No order as to costs.

JUDGE

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