

Pooja K.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 81 OF 2018
WITH
CIVIL APPLICATION NO. 1117 OF 2020
IN
CIVIL REVISION APPLICATION NO. 81 OF 2018

Kamalakant Dattatraya Sarode and Anr. ... Applicants
Versus
Bhanudas Karbhari Sonwane ... Respondent

...
Mr. D.R. Markad – Advocate for Applicants
Mr. R.R. Karpe – Advocate for sole Respondent
....

CORAM : GAURI GODSE, J.
DATE : 1st February, 2023

PER COURT :

1. This Civil Revision Application is filed by the tenants for challenging the concurrent judgments and decrees passed for eviction on the ground of default. The respondent / landlord had filed Regular Civil Suit No. 159 of 2011 on the ground of default and the same was decreed by the judgment and decree dated 18th October, 2012 passed by the learned Civil Judge Junior Division, Rahuri. Regular Civil Appeal No. 675 of 2012 preferred by the applicants / tenants is dismissed by the learned

District Judge -12, Ahmednagar on 25th September, 2017.

2. The trial court has specifically recorded the findings with respect to issuance of demand notice dated 24th January, 2011 as well as receipt of demand notice by the present applicants / tenants. The present applicants contended that, they are not in arrears of rent and that receipt of demand notice was disputed. However, the trial court had appreciated evidence with respect to the issuance of demand notice and receipt of the notice is accepted. It is not the case of the applicants that pursuant to the notice or after receipt of the suit summons, any attempt was made by the applicants for depositing the amount of arrears as demanded. Hence, by accepting the case of termination of tenancy on the ground of default, the trial court has passed a decree for eviction. The said finding is confirmed by the first appellate court.
3. Learned counsel for the applicants has submitted that, applicants were ready and willing to pay amount of rent and today also they are willing to pay the entire rent. Hence, the decree of eviction be set aside. Such readiness and willingness of the

applicants is of no assistance at this stage. The law with respect to grant of decree on the ground of default under section 15 of the Maharashtra Rent Control Act, 1999 ("Rent Act") is well established. The tenant has two opportunities to avoid a decree of eviction on the ground of default. Firstly by making payment of arrears of rent amount demanded by the notice of demand, within ninety days of receipt of demand notice and continue paying the rent amount. Secondly, within ninety days of service of suit summons, by paying or depositing in the court, the arrears of standard rent and permitted increases then due together with simple interest at 15% per annum and thereafter continue to pay or deposit such standard rent and permitted increases regularly till the decision of the suit.

4. It is not the case of the applicants that they had made any such attempts. There is nothing shown to me that any compliance was done as contemplated by section 15 of the Rent Act. Both the courts have held that, demand notice was issued and served. Copy of notice and postal acknowledgment is produced on record at exhibits 30, 31 and 32 respectively. In absence of

compliance of the conditions as contemplated under section 15 of the Rent Act, the decree for eviction has to follow. Hence, I do not find any reason to interfere with the concurrent findings of both the courts. There is no merit in the Civil Revision Application. Hence, the Civil Revision Application is dismissed.

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5. This Civil Application is filed by the applicants for permission to file documents on record. In the application it is stated that, the applicants seek leave to rely upon receipts of amount deposited by the applicants in the first appellate court. The application also seeks to place on record copies of applications with respect to disconnection of electricity as well as applications made by the applicants for re-connection of the electricity. The copies of receipts for depositing amount in the first appellate court are with respect to deposit of amount made after Trial Court had passed a decree for eviction hence, those receipts are of no assistance to the applicants at this stage.
6. The applications with respect to electricity connection are also not relevant for the purpose of present Civil Revision

Application which challenges concurrent decree for eviction on the ground of default. Hence, Civil Application is dismissed.

[GAURI GODSE]
JUDGE