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**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 30 OF 2023

Madhav Kashinath Badgular

... Applicant

Versus

Kalpana Suhas Agrawal

... Respondent

...

Mr. A.I. Deshmukh – Advocate for the applicant.

...

CORAM : GAURI GODSE, J.

DATE : 27th February, 2023

PER COURT :

1. This civil revision application is filed by the defendant/tenant for challenging the judgment and decree for eviction of the applicant from the suit premises.
2. Respondent-landlady filed Regular Civil Suit No.131 of 2002 in respect of the tenanted premises situated on first floor of Municipal House No.3408, new House No.201/6 at Bhusawal. The said suit was filed on the ground that applicant/tenant has blocked the access of the plaintiff to use toilet block on the first floor, and hence the said conduct of the applicant has created nuisance to the respondent/landlady. By judgment and decree

dated 20th January, 2014, learned Civil Judge, Junior Division, Bhusawal has decreed the suit by holding that the conduct of the applicant amounts to creating nuisance as the applicant has prohibited the respondent-plaintiff from using the toilet block on the first floor. Being aggrieved by the said decree, the applicant preferred Regular Civil Appeal No.614 of 2014. By judgment and decree dated 4th January, 2023, the said appeal is dismissed and eviction decree passed by the trial Court is confirmed. Hence tenant has filed the present civil revision application.

3. Learned advocate on behalf of the applicant submitted that it was the case of the applicant that there was another toilet block available for the respondent, and hence, she was not required to use the said toilet block on the first floor. Learned advocate further submitted that it was the case of the applicant that the respondent was not the owner of the tenanted premises. Learned advocate, further submitted that the ground of the respondent that the applicant had blocked access of respondent to the toilet block on the first floor was not correct, and the applicant had specifically denied that he had blocked access as claimed by the respondent. He, therefore, submitted that there is no nuisance

created by the applicant as pleaded by the respondent. He, therefore, submitted that the impugned judgment and decree would require interference and hence, civil revision application be admitted.

4. I have perused the record of civil revision application. Though the applicant had disputed the title of the respondent, there was copy of sale deed produced on record to prove the ownership of the respondent over the tenanted premises. The trial Court has further also recorded a finding that there is landlord and tenant relationship between the applicant and the respondent. Trial Court has relied upon the admissions given by the applicant that he had in fact prohibited the respondent from using the gallery situated on the northern side of his room on the ground that the respondent had no right to open the door. Learned trial Court has further recorded a finding that the evidence on record showed that there was one toilet block on the first floor, and that, the respondent had right to access the same through gallery situated on the northern side of the tenanted premises, and that, the applicant had in fact obstructed the respondent from using the said toilet block by closing the door and putting the scrap

material and other articles in the gallery and created hurdle to the respondent to access through gallery to reach the toilet block on the first floor. Thus, on the basis of the evidence on record, trial Court recorded that the conduct of the applicant amounts to creating nuisance to the respondent, and hence respondent was entitled to a decree for eviction.

5. The first appellate Court has also examined the evidence on record and confirmed the findings recorded by the trial Court. It is not the case of the applicant that the part of the gallery where there was obstacle created by the applicant was a part of the tenanted premises. The applicant is not entitled to create any kind of obstacle to the right of the respondent to use her own property. Apart from the tenanted premises, the applicant can not prohibit respondent/landlady from using her own premises. Admission given by the applicant shows that he had prohibited the respondent from using the toilet block situated on the first floor. Such a conduct of the applicant definitely amounts to creating nuisance to the respondent/landlady.
6. Both the Courts have examined the evidence and have recorded findings against the applicant and have accepted the case of the

respondent. I do not find any illegality and/or perversity in the reasonings recorded by both the Courts. Hence, there is no case made out to exercise the limited jurisdiction under section 115 of the Code of Civil Procedure, 1908 to interfere with the findings recorded by both the Courts. I do not find any merit in the civil revision application and the same is dismissed.

[GAURI GODSE]
JUDGE