

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

CIVIL REVISION APPLICATION NO. 92 OF 2023

Madhukar S/o Baburao Pankhewale,
Age : 70 Years, Occ. Nil,
R/o. Jagtap Building, Main Road,
Shrirampur, Tal. Shrirampur,
District Ahmednagar.

..Applicant
(Original defendant)

V E R S U S

Surendra S/o Ramchandra Jagtap,
Age : 66 Years, Occ. Business & Agri.
R/o. Jagtap Building, Main Road,
Shrirampur Tal. Shrirampur,
District Ahmednagar.

.. Respondent
(Orig. Plaintiff)

....

Advocate for the applicant : Mr. S. B. Kadu
Advocate for respondent : Mr. V. S. Bedre

.....

CORAM : S. G. MEHARE, J.
DATE : 23.10.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned counsel for the respondent.
2. This is the revision against the Judgments and orders of eviction under Sections 15 and 16 of the Maharashtra Rent Control Act 1999.

3. The learned counsel for the applicant/tenant would submit that the tenant had sent a money order of Rs. 2640/- before the expiry of 90 days from the receipt of the statutory notice of the landlord. Therefore, it cannot be said to be a default in payment of the rent. Thus, both the Court erred in granting the decree of eviction under Section 15 of the Maharashtra Rent Control Act 1999.

4. To bolster his argument, the learned counsel relied upon the case of Marutrao Bhaurao Shelke Versus Akbarali Noobhai Bohori and Others (1974 Mh.L.J. 239) and Madhukar Govind Vaidya Versus Narayan Harishandra Surve 2001 (Supp.2) Bom.C.R. 367

5. The facts of the case of Marutrao were that notice of demand of arrears of rent was served. The tenant had sent the cheque for the amount mentioned in the notice with his reply. However, it was not received. During the pendency of the suit in the trial Court, he had paid all the rent and costs. The facts of the case of ***Madhukar Govind Vaidya*** were that before the issuance of the suit process, the landlord had refused to accept rent on three occasions without any valid reasons.

6. The learned counsel for the respondent/landlord would submit that the applicant did not pay the rent as demanded in the notice. He has paid less amount and not as per the amount demanded. Hence, the landlord has justified in refusing the money order. Further, the tenant did not deposit the entire amount in the Court within 90 days from the date of the receipt of the suit summons. However, at the fag end, he had deposited the entire amount of the rent demanded in the notice of the landlord. The tenant never deposited rent regularly till the disposal of the suit; therefore, it has been correctly held that he is a defaulter.

7. The learned counsel for the applicant/defendant would submit that the landlord has many other properties and the tenant has no other properties for residence. The tenant is about 74 years old. Hence, hardship is caused to him. This aspect also has not been considered by both the Courts.

8. The learned counsel for the landlord would submit that the issue of hardship has been correctly considered and the reasons have been assigned that the pleading of the defendant cannot be believed that the landlord has alternative accommodation. The tenant, after the

notice was served upon him, never made any effort to occupy alternative premises in Shrirampur city,

10. There are two concurrent judgments and findings. The findings are supported by the various pronouncements of the Supreme Court and High Courts. The conduct of the tenant reveals that he was not willing to pay the rent regularly. Neither did he pay the amount of rent demanded in the notice nor deposited the same within 90 days from the date of the receipt of the suit summons. He has also not paid rent regularly in the Court during the course of the trial. The case laws relied upon by the applicant do not come to his aid. The findings are not against the rule of appreciation of the evidence.

11. This is a revision under Section 115 of the Code of Civil Procedure. Under this revisional jurisdiction, the High Court may interfere with the Judgments and orders if it appears that the trial court exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested or acted in the exercise of its jurisdiction illegally and with material irregularity. None of the grounds mentioned under Section 115 of the Code of Civil Procedure has been established by the applicant. On the contrary, it appears that both the Courts are correct in the exercise of their jurisdiction legally and without any material

irregularity. There is no substance in the revision application. Hence, the following order.

ORDER

- (i) The civil revision application stands dismissed.
- (ii) No order as to costs.
- (iii) The applicant/tenant shall vacate the suit premises within 60 days from today. He shall not induct any person creating right, in any way, over the property involved in the matter.

(S. G. MEHARE)
JUDGE

ysk