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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.234 OF 2023

Sr. Superintendent Post Office and Anr.

...Applicants

Versus

Smt. Radhabai Damodar Kanitkar and Ors.

..Respondents

- Mr. A.S. Khandeparkar, Senior Advocate with Mr. Niranjan Shimpi, for the Applicants.
- Mr. S.A. Rajeshirke, for the Respondent Nos.1 and 2.

CORAM : MADHAV J. JAMDAR, J.

DATE : 16th JUNE 2023

P.C. :

1. Heard Mr. Khandeparkar, learned Senior Counsel appearing for the Applicants and Mr. Rajeshirke, learned counsel appearing for the Respondents. The Applicants are the original defendants and the Respondents are the original plaintiffs.

2. The challenge in this Civil Revision Application is to the legality and validity of the Judgment and Decree dated 14th October 2011 passed by the learned Joint Civil Judge, Junior Division, Sangli in Reg. Civil Suit No.8 of 2003 as well as to the Judgment and Decree dated 24th September 2019 passed by the learned District Judge – 3, Sangli in Reg. Civil Appeal No.42 of 2012.

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3. The Respondent Nos.1 and 2 filed said Reg. Civil Suit.8 of 2003 on the ground of *bonafide* requirement and arrears of rent under the provisions of the Maharashtra Rent Control Act, 1999.

4. The learned Trial Court has held that the plaintiff has proved *bonafide* requirement as well as it has been proved that the Applicants i.e. defendant Nos.1 and 2 are the defaulters. The learned Appellate Court has also come to the same conclusion and therefore, dismissed the suit.

5. It is the contention of Mr. Khandeparkar, learned Senior Counsel that the plaintiffs have failed to prove their *bonafide* requirement and the finding with respect to the arrears of rent is also not in accordance with the evidence on record.

6. Mr. Rajeshirke, learned counsel appearing for the Respondent Nos.1 and 2 submitted that the Respondent Nos.1 and 2 have proved *bonafide* requirement and the evidence on record supports the finding regarding all the aspects i.e. *bonafide* requirement, hardship as well as that the Applicants are the defaulters.

7. Perusal of the judgment of the learned Trial Court as well as the learned First Appellate Court shows that there are total 8 persons in the family of the plaintiffs and only three rooms are available for

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them. Thus, it is established that, the family is not having sufficient accommodation and therefore, *bonafide* requirement is proved.

8. Mr. Khandeparkar, learned Senior Counsel appearing for the Applicants could not show anything to substantiate his contention that the findings of the Courts is not in accordance with the evidence on record. Apart from the said aspects, even the hardship is also considered by both the Courts and finding is recorded in favour of the Respondent No.1 and 2.

9. Learned Trial Court as well as learned Appellate Court have also taken into consideration the aspect that the Applicants failed to pay rent since October 2001 and when the suit notice was issued instead of paying the rent, the plaintiffs were asked to comply with certain documents for payment of rent. Therefore, the finding recorded by the learned Trial Court as well as the learned Appellate Court as far as the ground of default is concerned, the same is also in accordance with the evidence on record. For the above reasons, as there is no substance in the Civil Revision Application, the same is dismissed.

10. However, it is seen that the Applicant No.1 is the Senior Superintendent of Post Office, Sangli Division and Applicant No.2 is

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the Secretary of Post and Telegram Department, Government of India. The Applicants are having Post Office in the suit premises. As the Applicants are having Post Office in the suit premises, I am inclined to grant two years' time to the Applicants to vacate the suit premises on the condition that the Applicant No.1 i.e. Senior Superintendent, Sangli Division, Rajwada Chowk, Sangli shall file an undertaking in this Court within a period of one month from uploading of this order undertaking to vacate the suit premises on or before 30th June 2025.

11. It is made clear that if such an undertaking is not filed within the aforesaid stipulated period then the Applicants will not be entitled for the stay of the Judgment and Decree passed by the learned Trial Court as confirmed by the learned Appellate Court.

12. For the above reasons, the following order is passed:-

ORDER

- (i) Civil Revision Application is dismissed, however, with no order as to costs;
- (ii) Applicants are granted time upto 30th June 2025 for vacating the suit premises on the condition that Applicant No.1 files an undertaking in this Court within a period of one month from uploading of this order

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giving undertaking to the Court that the Applicants will vacate the suit premises on or before 30th June 2025. It is made clear that the stay granted by this Court will not remain in operation if the undertaking as directed is not filed in the stipulated time;

(iii) The Applicants to pay per month the contractual rent of Rs.50/- till the suit premises are vacated.

13. Civil Revision Application is dismissed in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]