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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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CIVIL REVISION APPLICATION NO.86 OF 2023

Lalushankar Devram Panaji Vyas ...Applicant
V/s.
The Board of Trustees of Port of Bombay ...Respondent

Mr.Durgaprasad Sabnis with Adv.Lovely Jain i/b LEX FIRMUS for the Applicant.

Mr.Roop Basu i/b M/s.The Law Point for the Respondent.

CORAM : RAJESH S. PATIL, J.
DATE : 19TH OCTOBER, 2023.

P.C. :-

1. The Respondent / Board of Trustees of Port of Bombay (for short "BPT") is the landlord of the premises i.e. Plot No.302 admeasuring 253.25 sq. ft. situated at Mazgaon Reclamation Station, Bombay.
2. The Applicant is the original tenant. The premises was leased out to the father of the present Applicant under a registered document on fifteenth monthly lease.
3. A revision of the rent was affected by the Respondent / BPT from 1 October 1982. The revised rate of the premises was fixed at Rs.4,274.86 ps. exclusive of service charges of Rs.25.33 ps. per

month. Hence a termination notice dated 29 March 1985 was issued by the Respondent. As the premises were not vacated, a Suit being L. E.& C. Suit No.386/441 of 1985 was filed by the Respondent in Small Causes Court, at Bombay, under Section 41 of the Presidency Small Cause Court, Act.

4. By the judgment and order dated 1 December 1999, the suit was decreed and the Applicant was directed to pay a sum of Rs.61,082.90 ps. along with interest at the rate of 15% p.a. on Rs.50,259.75 ps.

5. The Applicant being dis-satisfied, filed an Appeal being Appeal No.162 of 2000 before the Appellate Bench of the Court of Small Causes, Bombay challenging the judgment and order passed by the Trial Court. However, the Applicant preferred an application for withdrawal of the Appeal being Exhibit – 38, before the Appellate Bench of the Court of Small Causes, Bombay.

6. The Appellate Bench by its order dated 15 June 2009, permitted the Applicant to withdraw the Appeal.

7. It is the case of the Applicant that the Appeal was withdrawn, since there were settlement talks with the Respondent / BPT pursuant to which a fresh lease was supposed to execute between the parties. It is the case of the Applicant however, that once the Appeal was withdrawn by the Applicant, BPT changes its

mind and was not ready to execute a fresh lease in favour of the Applicant.

8. So also soon thereafter, the Respondent / BPT filed Execution Application No.116 of 2018 before the Court of Small Causes, Bombay. The Execution Application was thereafter heard and decided by an order dated 17 March 2021, thereby dismissing the Execution Application. The Respondent / BPT thereafter carried the matter in Revision before the Division Bench of the Court of Small Causes, Bombay, being Revision Application No.16 of 2022.

9. The Revisional Court took into consideration, even while decreeing L.E. & C. Suit, it was held that the Applicant is in arrears of rent. Hence, the Revisional Court having heard the matter on the fact that the original decree of eviction passed against the Applicant, allowed the Revision Application and directed that the Execution Application be proceeded further in accordance with law.

10. The said order passed by the Revisional Court is under challenge by way of Writ Petition before this Court. Even in this Court, the Applicant admitted that he is in arrears of the rent from July 2018 till date.

11. This matter was argued on the last occasion. Counsel for the Applicant was asked whether his client is ready to deposit the arrears of rent. The Applicant is present in Court and through his

advocate, informed this Court that it will be difficult for him to deposit the rent.

12. I have heard both sides. As a matter of record, after the revision of rent in the year 2012, the Applicant has not accepted the revision and has defaulted, therefore a suit for eviction was filed against the Applicant. Lastly the Single Judge of the Court of Small Causes, Bombay has decreed the suit. The Appeal was withdrawn by the Applicant as he was under the impression that BPT would execute a fresh lease with them. Advocate for BPT has not admitted the position and has stated that the Appeal has been withdrawn without any condition.

13. As the withdrawal of the Appeal is without any condition, it is not left for the Applicant now to execute a fresh lease from BPT. There is no perversity shown in the order passed by the Appellate Court. Hence the present Civil Revision Application is dismissed. There shall be no order as to costs.

(RAJESH S. PATIL, J.)