

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 184 OF 2023

Cherukara Karunakarannair Mohankumar

...Applicant

Versus

Ghanshyam Brahmadeo Yadav

...Respondent

Mr. K. K. Malpathak for the Applicant.

Mr. Ankit Tiwar i/b K. P. Tiwari & Co. for Respondent No.1.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : DECEMBER 14, 2023

P. C. :

1. Civil Revision Application takes exception to the order dated 6th February, 2023 passed by the Appellate Court confirming the Judgment and Decree dated 3rd March, 2014 passed by the Court of Small Causes in R.A.E. & R. Suit No. 669/1018/2009.

2. The brief facts are that the Plaintiff is the owner and landlord of a Chawl known as Ramdas Yadav Chawl situated at Link Road, Sakinaka and the Defendant is the monthly tenant in respect of Room No. 6, located in the said chawl, at a contractual rent of Rs. 50/- per month including permitted increases. Notice dated 16th January, 1997 was issued

by the Plaintiff to the Defendant demanding arrears of rent for the period from 1st December, 1984 to 31st December 2008 at the contractual rent amounting to Rs. 14,450/-. As the amount was not paid, by the legal notice dated 16th January, 2009, the tenancy of the Defendant was terminated. Subsequently, the suit came to be filed before the Small Causes Court seeking recovery of possession of the tenanted premises alongwith arrears of rent. In the plaint, apart from the ground of arrears of rent, the case of bonafide requirement was also pleaded. The Trial Court decreed the suit on both the grounds. However the Appellate Court negated the issue as regards the bonafide requirement and decreed the suit only in respect of arrears of rent.

3. Learned counsel for the Applicant submits that the suit is barred in view of the provisions of Section 22 of the Slum Act, which prohibits the institution of the suit or continuing with the suit without the permission of the Competent Authority. In support of his submission, he has placed on record the communication with the Deputy Collector as well as the Official Gazette to indicate that the subject premises which is situated at CTS No. 450 and 451 had been declared as slum vide notification dated 3rd October, 1977. He submits that the said documents were not considered by the Appellate Court and undue weightage was given to the Judgment of the Competent Authority in Appeal No. 46/1989 delivered

on 24th February, 1992. He also points out that the case of the Defendant as regards the arrears of rent is that as per the first notice which was issued on 14th October 2006 the arrears demanded was 7,100/- and an amount of Rs. 6,250/- was tendered which was refused by the landlord. He has fairly conceded that the second notice based on which the suit for eviction has been filed is dated 16th January, 2009 and the demand was at the contractual rent which he had not paid to the Plaintiff neither deposited in the Court.

4. Considered the submissions and perused the record.

5. As regards the first submission that the area has been declared as slum, the impugned order indicates that the Plaintiff had produced the copy of the judgment delivered by the Competent Authority which shows that the notification of the slum dated 3rd October, 1977 has been set aside to the extent of CTS No. 450 and 451. In view of the order of the Competent Authority being on record, the Appellate Court has rightly held that the correspondence and the other documents cannot prevail over the order of the Competent Authority. No infirmity can be found in the findings of the Appellate Court. The submission of the learned counsel for the Applicant is that, the said documents have not been considered is not sustainable, inasmuch as the Appellate Court has considered the documents and held that the order of the Competent

Authority would prevail over this document. As regards the ground of arrears of rent, learned counsel for the Applicant has fairly conceded that the demand notice was received as regards the arrears of rent, however there is non compliance of the provisions of Section 15(3) and the Defendant has not tendered in the Court the amount demanded as arrears of rent.

6. In light of the above, there is no jurisdictional error or any material irregularity or illegality in the impugned order which would warrant interference under Section 115 of the CPC. Civil Revision Application is devoid of merits and stands dismissed.

(SHARMILA U. DESHMUKH, J.)