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

CIVIL REVISION APPLICATION NO. 139 OF 2024

Kamal Narayan Hajare
Age 50 years, Occ. Household,
R/o. Swapn, Plot No. 47, Near
Godown, New Gaothan, Kedgaon,
Taluka and Dist. Ahmednagar.

.. APPLICANT
(Orig. Deft. No.2.)

VERSUS

1. Subhash Kondaji Raut
Age 68 years, Occ. Retired
R/o. Rahuri Sahakari Sakhar
Karkhana Vasaat, Subsidy Chal,
Chal No.4, Room No.8, Rahuri
Factory, Rahuri, Dist. Ahmednagar
At present R/o. Swapn, Plot No. 47,
Near Godown, New Gaothan,
Kiedgaon, Tq. And Dist. Ahmednagar.
2. Deepak s/o. Uttam Bangar,
Age 61 years, Occ. Service
R/o. Police Head Quarter,
Sarjepura, Ahmednagar.

.. RESPONDENTS
No.1 Orig. plaintiffs
No.2 Orig. Deft. No.1.

...

Mr. S.D. Jaybhar, Advocate for applicant.
Mr. S.G. Nandedkar, Advocate for respondent No.1 caveator.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 18th DECEMBER, 2024.

ORDER :-

1. The applicant/original defendant No.2 impugns the judgment and order dated 20.7.2024 passed by the District Judge – IV, Aurangabad in Regular Civil Appeal No. 117 of 2021 as well as the judgment and order dated 9.9.2021 passed by the Civil Judge (J.D.), Ahmednagar in R.C.S. No. 316 of 2018 by which a decree of eviction has been granted in favour of respondent No.1/plaintiff as per Sections 15, 16(g) of the Maharashtra Rent Control Act, 1999 and the applicant defendant No.2 is directed to deliver vacant possession of the two rooms within a period of one month from the date of decree. The defendant is also directed to pay rent for 16 months @ Rs. 900/- p.m. alongwith permitted increases.

2. For the sake of convenience, hereinafter, parties are referred as per their original status.

3. The respondent/plaintiff is owner of the suit premises. He was serving with Sugar Factory at Rahuri. He rented out the said premises to defendants who represented themselves to be husband and wife and that defendant No.1 is in service with Police Department at Ahmednagar. Defendants paid rent till November, 2016, thereafter, defaulted to pay any rent. Plaintiff demanded arrears of rent and asked them to vacate the premises since he was in need of the premises for his own use. Defendants refused to do so. As such, plaintiff issued a legal notice dated 28.3.1998 thereby terminating tenancy and claimed arrears of rent for 16 months alongwith vacant possession of the suit premises.

4. There was no response to the legal notice. Hence, plaintiff instituted a suit for eviction and recovery of arrears of rent. Defendant No.1 failed to contest the suit. Defendant No.2 filed written statement,

contending that although was inducted as a tenant, plaintiff had offered to sale the suit premises to her for a consideration of Rs. 7 Lakhs. However, later on agreed to sale it for 5 Lakhs. Defendant No.2 paid Rs. 2 Lakhs and requested him to execute the sale deed. However, plaintiff denied on one or other pretext and now present suit is filed giving false reasons.

5. The trial court framed the issues and concluded that defendant No.2 is the tenant over suit property on monthly rent of Rs. 900/- p.m. The trial court accepted plaintiff's claim of his bonafide requirement and also default in payment of rent by defendant No.2; consequently passed a decree for eviction under Sections 15 and 16(g) of the Maharashtra Rent Control Act. Further directions for payment of rent alongwith 4% permitted increases have been given.

6. Aggrieved thereby, Defendant No.2 filed appeal. The appellate court concurred with the judgment and decree passed by trial court and dismissed the appeal.

7. Mr. S.D. Jadhav, learned advocate appearing for the appellant submits that plaintiff failed to prove service of demand notice of arrears on defendants, hence, she has no cause of action to file suit on the ground of default. He would further submit that defendant No.2 is residing in suit premises for last 24 years. It would be difficult for her to relocate at other place. She would suffer greater hardship as compared to plaintiff, in case eviction is ordered. According to him, plaintiff has failed to prove the bonafide requirement.

8. Having considered submissions advanced, it is apparent that defendant No.2 was inducted as a tenant in the suit premises when the

plaintiff was serving at Rahuri Sugar Factory. He was provided accommodation at the place of employment. After his retirement from service, he seeks possession of the suit property for his own use. Further, defendant No.2 has defaulted in payment of rent as per the agreement. The bonafide requirement of the suit premises by the plaintiff is writ large in the facts of the present case. Plaintiff has brought on record sufficient evidence to show that he retired from service and he does not have any house property for his own residence. There is nothing on record to show that the plaintiff has any other alternate accommodation. The plaintiff proved that suit property is convenient for his residence. The finding on bonafide need of plaintiff recorded by the trial court has been concurred by appellate court. In view of the concurrent finding of fact, no interference is required by this Court in exercise of revisional jurisdiction.

9. So far as the point of default in payment of rent is concerned, the trial court held that defendant No.2 was tenant of plaintiff in two rooms at monthly rent of Rs. 900/- p.m. The trial court has also observed that plaintiff served notice of termination of tenancy dated 20.3.2018 as defendant No.2 was willful defaulter since 2016. In spite of service of such notice, she has not cleared arrears of rent. Even upon institution of suit, defendant failed to deposit rent within a period of 90 days in tune with Section 15(3) of the Maharashtra Rent Control Act. Consequently, trial court concluded that defendant No.2 defaulted in payment of rent. As such, she is liable to be evicted from the suit premises in terms of Section 15 of Maharashtra Rent Control Act.

10. Both the courts have concurrently held that defendant No.2 has defaulted in payment of rent and passed a decree for arrears of rent.

The evidence on record clearly depicts that defendant failed to pay agreed rent to plaintiff. Consequently, directions are issued for eviction and payment of arrears of rent alongwith 4 % permitted increases.

11. At the last hearing, learned advocate for applicant, on instructions, made submission that applicant may be granted sufficient time to vacate the premises. Accordingly, he filed an undertaking dated 4.12.2024, duly verified before Sections Officer of this Court, and sought period of one year to vacate premises. Defendant No.2 has voluntarily signed undertaking. She is identified by Mr. S.D. Jadhav, Advocate.

12. Taking into consideration the aforesaid submissions and the undertaking tendered by defendant No.2 it would be appropriate to grant her period of one year to vacate premises from the date of judgment of appellate Court i.e. 23.7.2024. Hence the following order :-

O R D E R.

- [i] Civil revision application stands dismissed.
- [ii] The execution of the judgment and decree of eviction passed in appeal shall remain in abeyance till 23.7.2025.
- [iii] The applicant/defendant no.2 shall vacate the suit premises and hand over possession to the plaintiff (respondent No.1) on or before 23.7.2025.
- [iv] The undertaking dated 4.12.2024 shall be treated as undertaking given to this Court. Defendant No.2 shall continue to pay rent amount till she hands over vacant possession to plaintiff.

[S.G. CHAPALGAONKAR, J]

grt/-