

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL REVISION APPLICATION NO. 558 OF 2024****Shri Ashok Murlidhar Karanjkar****....Applicant****V/s.****Jabbar Rasul Bagwan****....Respondent**

Mr. Hrishikesh S. Shinde, for the Applicant.**Mr. Sarthak Diwan, for the Respondent.**

CORAM : SANDEEP V. MARNE, J.**Date : 23 OCTOBER 2024.****P.C. :**

1) The Revisionary Jurisdiction of this Court is invoked under Provisions of Section 115 of the Code of Civil Procedure, 1908 for setting up a challenge to the Judgment and Order dated 30 August 2024 passed by Extra Joint District Judge, Barshi, District Solapur dismissing the Regular Civil Appeal No.18 of 2019 and confirming the eviction decree dated 19 November 2018 passed by the Civil Judge, Junior Division, Barshi in Regular Civil Suit No.229 of 2005.

2) I have heard Mr. Shinde, the learned counsel appearing for the Revision Applicant and Mr. Diwan, the learned counsel appearing for Respondent-landlord.

3) After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that the three grounds viz. unlawful subletting, non-user and *bonafide* requirement are concurrently accepted by the Trial and the Appellate Courts. The ground of nuisance has been rejected.

4) So far as the ground of unlawful subletting is concerned, the Trial Court has relied upon Shop Act license reflecting the name of Shri Vithal Namdeo Ghabade thereof. Additionally, the Trial Court has also noticed names of other establishments such as Yash Jeans and Deva Jeans on the Shop Act licenses. Plaintiff came up with the specific case in the Pleint that the Defendant unlawfully sublet the suit premises to Vithal Namdeo Ghabade. The said pleaded case of the Plaintiff has been proved by reflection of name of Vithal Namdeo Ghabade on the Shop Act license. I therefore do not find, any perversity in the findings recorded by the Trial Court with regard to the ground of unlawful subletting.

5) So far as the ground of non-user is concerned, Plaintiff examined an official of electricity supply company who produced a certificate showing that the electricity connection bearing No. C-706 was not used since February 2001 and that the suit premises were found closed since April 2002. The said certificate was issued on 30 July 2004. Defendant on his own did not produce any electricity bill to show consumption of electricity while using the shop premises. In my view, therefore, the Trial Court has rightly accepted the ground of non-user.

6) So far as the ground of *bonafide* requirement is concerned, it appears that same was added subsequently by amendment of the Plaint. However, despite grant of opportunity, the Defendant did not file additional written statement and did not contest the ground of *bonafide* requirement. In absence of any contest to the ground of *bonafide* requirement, the Trial Court has proceeded to accept the said ground as well.

7) All the three grounds of unlawful subletting, non-user and *bonafide* requirement are concurrently upheld by the Trial and the Appellate Courts. In exercise of limited Jurisdiction under Section 115 of the Code, this Court cannot act as an Appellate Court in absence of demonstration of any jurisdictional error on the part of the Trial and the Appellate Court. Civil Revision Application is thus devoid of merits and same is **dismissed**.

8) The Revision Applicant is however, granted time till 30 November 2024 to vacate the suit premises, subject to not creating any third party rights.

[SANDEEP V. MARNE, J.]

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