

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 626 OF 2019

Bramhanand Murari Harne & Ors.

..... Applicants

VERSUS

Smita Ganesh Shetye & Ors.

..... Respondents

Mr.N.D.Jaywant for the Applicants.

CORAM: RAJESH S. PATIL, J.

DATE : 11 MARCH, 2024

P.C. :-

This civil revision application is filed under section 115 of the Code of Civil Procedure, 1908 by the landlord. The landlord had filed an eviction suit only on the ground of 'default of payment of rent'. The said suit filed by the landlord was dismissed. An appeal was preferred by the landlord before the Division Bench of the Court of Small Causes. The said appeal filed by the landlord was also dismissed.

2. Against the concurrent findings recorded by both the Courts, the

present civil revision application is filed under section 115 of the Code of Civil Procedure, 1908.

3. Mr. Jaywant, learned counsel appearing for the applicants made his submissions on behalf of the applicant.

(a) He submits that the defendant did not deposit the rent in the Court as per the demand made in the notice dated 26 December, 2008.

(b) He submits that the defendant if at all had grievances of the amount claimed by the landlord, he should have filed a standard rent application, based on which he could have deposited the standard rent in the Court. He submits that if such an application is not preferred by the tenant, a decree of eviction should have been passed.

4. I have heard Mr. Jaywant and I have also gone through the

demand notice dated 26 December, 2008. The said demand notice in paragraph (2) states that the rent of the suit premises is Rs.18/- per month till 31 December, 1980. However, surprisingly, the rent claimed from the month of January 1981 is at Rs.100/- per month. No basis is shown in the notice or in the argument today made before me on what basis such an increase of more than five times was demanded by the landlord.

5. After the suit summons was served on the defendant on 13 June, 2009, the tenant immediately on 7 July, 2009 preferred an application before the Small Causes Court allowing him to deposit the arrears of rent of the suit premises at the rate of Rs.18/- per month along with interest at the rate of 15% per annum on the arrears of rent. The said application made by the tenant was allowed and the defendant was allowed to pay arrears of rent along with interest at the rate of 15% per annum with cost of the suit, by order dated 2 July, 2010. It appears that the defendant complied with the said directions given in the order and

deposited the money in the Court. The defendant appears to have continued to deposit the monthly rent of the suit premises from August 2009 onwards.

6. According to me, in view of the above facts, as per the provisions of section 15(3) of the Maharashtra Rent Control Act, eviction decree could not be passed. The Trial Court and the Appellate Court of the Small Causes Court have concurrently held that no decree of eviction could have been passed.

7. No case is made out in this civil revision application.

8. Civil revision application is dismissed. No costs.

[RAJESH S. PATIL, J.]