

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.176 OF 2024

Khurshid Shaikh Nanhu
since deceased through legal heirs
Altaf Nanhumiyan Shaikh & Ors.

....Applicants

V/S

Sayyed Nawab Sayyed Ahmed
since deceased through legal heirs
Suraiya Rafique Khan & Ors.

....Respondents

Mr. Mayur Jadhav a/w Mr. Ratan L. Adhe *for the Applicant.*
Mr. Prashant D. Patil *for Respondent.*

CORAM: SANDEEP V. MARNE, J.
DATE : 19 JUNE 2024.

P.C.:

1 The challenge in the present Revision Application is to the judgment and order dated 16 August 2019 passed by District Judge-9, Nashik dismissing Regular Civil Appeal No.141 of 2014 and confirming the decree of eviction passed by Civil Judge Junior Division, Nashik on 6 June 2007 in Regular Civil Suit No.455 of 2005.

2 I have heard Mr. Jadhav, learned counsel appearing for the Revision Applicants and Mr. Patil, learned counsel appearing for Respondents.

3 After having heard the contentions raised by the learned counsel appearing for parties, it is seen that the Plaintiffs filed Suit for recovery of

possession of the suit property from Defendant/Applicant on the ground of default in payment of rent as well as on the ground of carrying out unauthorized construction in the suit property. The Plaintiff alleged that the Defendant demolished the suit premises and reconstructed the same. While doing so he also constructed additional rooms at the site.

4 Though the Defendant appeared in the suit and filed Written Statement, he did not lead any evidence nor cross-examined the witness of the Plaintiffs. It appears that for unauthorized construction carried out by the Defendant, Plaintiffs filed separate suit being Regular Civil Suit No.1208 of 2000 in which an order of injunction was granted against the Defendant from carrying out any construction at the site. Plaintiffs led evidence about unauthorized alterations and additions to the suit property which has remained uncontroverted. Thus carrying out unauthorized additions and alterations to the suit property is proved.

5 The contention of the learned counsel appearing for the Applicant that the Plaintiffs are not owners of the suit property cannot be accepted in view of the admitted position that the Defendant had filed Civil Miscellaneous Application No.39 of 1993 against the husband of Plaintiff No.2 and father of Plaintiff No.3 for fixation of transit rent. By doing so, Defendant admitted the landlord tenant relationship. He cannot now take a volte-face and deny the title of the Plaintiffs to the suit property.

6 After considering the overall conspectus of the case, I do not find any ground to interfere in the impugned orders passed by the Trial and the Appellate Court in revisional jurisdiction under Section 115 of the Code of

Civil Procedure, 1908. Civil Revision Application being devoid of merits is rejected.

7 After the order is pronounced, the learned counsel appearing for the Applicants seeks continuation of stay for a period of eight weeks. Considering the findings recorded in the order, prayer for continuation of stay is rejected.

(SANDEEP V. MARNE, J.)

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