

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

CIVIL REVISION APPLICATION NO. 231 OF 2024

Dayashankar Bhagwatiprasad Pandey } ...***Applicant***

: Versus :

Premlal Rajaram Vishwakarma *....Respondent*

Mr. Anand Pande, *for the Applicant.*

Ms. Pallavi Dabholkar, *for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

Dated : 9 September 2024.

P.C. :

1) The Applicant has filed this Revision Application challenging the decree dated 25 July 2019 passed by the Principal District Judge, Thane dismissing Civil Appeal No.92/2015 and confirming the eviction decree dated 30 March 2015 passed by the 10th Joint Civil Judge Junior Division, Thane in Regular civil Suit No. 2001/2012.

2) I have heard Mr. Pande, the learned counsel appearing for the Revision Applicant and Ms. Dabholkar, the learned counsel appearing for the Respondent-Original Plaintiff.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the eviction decree is passed on the solitary ground of non-use of the suit premises. The relevant period for deciding the ground of non-use is from March to August 2012 which happens to be the period of six

months immediately preceding the date of institution of the suit. Plaintiff examined witness from Maharashtra State Electricity Distribution Company to show Nil consumption of electricity at the suit premises during the relevant time. Though, the Defendant sought to question the genuineness of the electronic computer printout produced by the said witness by contending that the Certificate under Section 65B(4) of the Indian Evidence Act was produced, at the same time, the Defendant himself did not produce the electricity bills in respect of the concerned period. Defendant thus withheld vital evidence from the Court and created vague doubts about the evidence produced by the Plaintiff. Though another vague defence was raised that the electricity meter was faulty and was tampered with, no evidence is led to prove filing of any complaint with the Electricity Distribution Company about alleged tampering of the electricity meter. Considering the overall conduct of the Defendant, necessary inference was required to be drawn on the basis of evidence produced by the Plaintiff that the electricity consumption at the suit premises was almost Nil during the relevant period from March to August 2012. Defendant has also admitted that he used to visit his native place at Uttar Pradesh which also appears to be one of the reasons why the suit premises are kept locked reflecting zero consumption of electricity.

4) In that view of the matter, no serious flaw can be traced in the concurrent findings recorded by the Trial and the Appellate Court on the ground of non-use of the suit premises. Revision Application is accordingly rejected.

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[SANDEEP V. MARNE, J.]