



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 CRA NO. 31 OF 2025

Yasminbegum Aziskhan @ Dr. Nishad Shaikh Pathan And Anr.

VERSUS

Venkatswami Narayanswami Bondela

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Advocate for applicants : Mr. Suryawanshi Govind G.

CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 28, 2025

PER COURT :-

1. Heard Mr.Suryawanshi, learned advocate appearing for the applicants.
2. The applicants are the defendants in RCS No.86 of 2019 instituted by the respondent seeking decree of possession. It is contention of respondent/plaintiff that suit premise was in his possession being the employee of National Textile Mill. On his retirement, he put defendants into possession as tenants. However, defendants refused to vacate the premises, as agreed. Hence, he instituted the suit.
3. The applicant/defendants appeared before the court in response to the suit summons and filed an application below exhibit 42 seeking rejection of the plaint under order 7 rule 11 of the CPC contending that in view of section 15 of the Public Premises (Eviction of unauthorized occupant), Act 1971 (for short the Act) jurisdiction of the civil court is barred. As such, in view of sub- clause (d) of Rule 11 of Order 7 suit is barred by law.

4. Trial Court, after considering rival submissions, rejected application exhibit 42 vide impugned order dated 19.11.2024.

5. Mr. Suryawanshi, learned advocate appearing for the applicants submits that section 15 of the Act specifically bars jurisdiction of the civil court to entertain any suit for eviction of any person who is in unauthorized occupation of any public premises. According to him, defendants are unauthorized occupants of public premises and therefore, jurisdiction of the civil court is specifically barred.

6. Aforesaid argument has been dealt with by the trial court while rejecting the application. It is observed that, in case a public authority wishes to initiate proceedings for eviction of unauthorized occupation, remedy is provided under the Act before the competent authority and in such case jurisdiction of the civil court would be barred.

7. Admittedly, plaintiff is claiming recovery of possession from the defendants on the basis of his previous possession. The suit instituted by the plaintiff shall not be governed by the Act. In that view of the matter, bar under section 15 of the Act could have no application. Hence, no jurisdictional error is found in the impugned order. Civil Revision Application sans merit hence, stands dismissed. No costs.

(S. G. CHAPALGAONKAR, J.)

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