



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 623 OF 2013

Varsha Ramji Ugale

.. Appellant

Versus

Radhakisan Manohar Auti

.. Respondent

Shri P. S. Koshti, Advocate for the Appellant.

CORAM : SHAILESH P. BRAHME, J.

DATE : 09TH SEPTEMBER, 2025.

FINAL ORDER :

. Heard learned counsel for the appellant.

2. Present second appeal is preferred against concurrent findings of facts, non suiting the appellant for the relief of perpetual injunction.

3. It's case of the appellant - original plaintiff that she is tenant of the respondent inducted vide oral agreement dated 15.09.2007. She is in possession of the suit house on monthly rent of Rs. 2,000/- and she has also deposited Rs. 4,00,000/-. Apprehending dispossession R.C.S. No. 51 of 2010 is filed for injunction.

4. Respondent contested the suit denying the landlord - tenant relationship as well as any tenancy agreement between

the parties. It is contended that she was temporarily permitted to occupy the suit house for certain period and thereafter her possession is unlawful.

5. Both the parties led evidence before the Trial Court. The suit was dismissed on 28.02.2011. Being aggrieved R.C.A. No. 125 of 2011 was filed, which was also dismissed on 13.02.2013.

6. Learned counsel for the appellant submits that once the possession of the appellant is permissive, she is entitled to injunction and both the Courts below have committed error of jurisdiction. It is submitted that the appellant is in possession of the suit house, which is also admitted by the respondent. Hence, the possession should have been protected by the Courts below. Reliance is placed on the judgment of the Supreme Court in the matter of Rame Gowda (D) by L.rs. Vs. M. Vardappa Naidu (D) by Lrs. reported in *(2004) 1 SCC 769*.

7. It is brought to my notice that respondent - owner of the suit house had filed R.C.S. No. 841 of 2013 for possession against the appellant. It was contested on merits and decreed vide judgment dated 05.04.2019. Appellant had challenged the decree in R.C.A. No. 126 of 2019 before the District Court. Appeal was dismissed on 18.08.2023. Against that Second Appeal Stamp No. 36218 of 2023 was preferred, but its registration was refused on or about 24.01.2024. Appellant has already suffered a decree of eviction. In the wake of subsequent events, I do not find any

merit in the submissions of the learned counsel for the appellant.

8. The possession of the appellant is held to be illegal and she is directed to hand over the possession. Respondent has in fact followed due procedure of law by filing R.C.S. No. 841 of 2013 for securing possession. Appellant contested the suit and even had preferred R.C.A. No. 126 of 2019 also. A decree of possession passed against her is confirmed. Under these circumstances, there is no point in entertaining present second appeal. I do not find involvement of any substantial question of law. The relief of perpetual injunction has become redundant in view of subsequent events. Second appeal is dismissed.

[SHAILESH P. BRAHME J.]

bsb/Sept. 25