

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.434 OF 2024

Govind Ramdas Shirodkar ...Appellant

Versus

Prakash alias Gangadhar Apayya Mungarwadi ...Respondent

WITH

INTERIM APPLICATION NO.10604 OF 2024

IN

SECOND APPEAL NO.434 OF 2024

Govind Ramdas Shirodkar ...Applicant

Versus

Prakash alias Gangadhar Apayya Mungarwadi ...Respondent

Mr. G.H. Keluskar , Advocate for Appellant/Applicant.

Mr. Abhijit Adagule, Advocate for Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED : 30th July 2025

JUDGMENT :

1. Heard Mr. Keluskar, learned Counsel appearing for the Appellant and Mr. Adagule, learned Counsel appearing for the Respondent.

2. The challenge in this Second Appeal is to the legality and validity of the Judgment and Decree dated 20th August 2018 passed by the learned Civil Judge, Junior Division, Dodamarg as confirmed by the Judgment and Decree dated 3rd August 2023

passed by the learned District Judge-2, Sindhudurg in Regular Civil Appeal No. 154 of 2018.

3. Mr. Keluskar, learned Counsel for the Appellant submitted that following substantial question of law arises in this Second Appeal:

Whether both the learned Courts were right in holding that duration of the lease of the suit premises as per Section 106 of the Transfer of Property Act, 1882 is from month to month ?

4. Before considering the substantial question law raised by the learned Counsel for the Appellant, it is necessary to set out certain factual aspects.

5. Admittedly, the suit premises is not protected by the provisions of Maharashtra Rent Control Act, 1999 and therefore provisions of the Transfer of Property Act, 1882 are applicable to the suit premises.

6. The Respondent-landlord issued notice dated 10th August 2017 and terminated the Appellant's tenancy in the suit premises and thereafter as the possession was not given, the Suit was filed in the Court of learned Civil Judge, Junior Division, Dodamarg,

District Sindhudurg on 16th November 2017. The said Suit has been decreed and the Appeal filed challenging the same is also dismissed.

7. As the substantial question of law raised by the learned Counsel for the Appellant is concerning Section 106 of the Transfer of Property Act, 1882 the same is reproduced hereinbelow for ready reference :

“106. Duration of certain leases in absence of written contract or local usage.—

(1) In the absence of a contract or local law or usage to the contrary, a lease of immovable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice; and a lease of immovable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice.

(2) Notwithstanding anything contained in any other law for the time being in force, the period mentioned in sub-section (1) shall commence from the date of receipt of notice.

(3) A notice under sub-section (1) shall not be deemed to be invalid merely because the period mentioned therein falls short of the period specified under that sub-section, where a suit or proceeding is filed after the expiry of the period mentioned in that sub-section.

(4) Every notice under sub-section (1) must be in writing, signed by or on behalf of the person giving it, and either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party, or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.”

8. It is admitted position that the user of the suit premises is residential purpose and not for agricultural or manufacturing purpose as contemplated under Sub-Section 1 of Section 106 of the Transfer of Property Act. Thus, as the lease is not for agricultural or manufacturing purpose, lease is deemed to be the lease from month to month terminable on the part of either the lessor or the lessee, by fifteen days' notice. Admittedly, the Suit notice is dated 10th August 2017 and the suit has been filed on 16th November 2017. Thus, there is no substance in the substantial question of law raised by the learned Counsel for the Appellant.

9. Apart from that, it is required to be noted that the impugned Judgment and Decree has already been executed and Regular Darkhast No.1 of 2024 filed in the Court of learned Civil Judge, Junior Division, Dodamarg has been disposed of by Order dated

13th July 2025 of the learned Civil Judge, Senior Division,
Dodamarg by recording that the decree is satisfied.

10. Accordingly, the Second Appeal is dismissed, however, with
no order as to costs.

11. In view of dismissal of the Second Appeal, nothing survives
in the Interim Application and same is also disposed of.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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