PALLAVI MAHENDRA WARGAONKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 581 OF 2016

Jayanta Hemen Gupta And Anr. ...Applicants
Versus
Mrs Juliet Jaijeet Gupta And Ors. ...Respondents

Mr. Rajeev Singh, a/w Sayeed Mulani, Shobhana Waghmare i/b. Mulani & Co. for Applicant.

Mr. Sanjay P. Patankar, i/b. Rajkumar Dogra for Respondent No.1.

Mr. Sujeet Kurup for Respondent No.2 – Society.

CORAM : Advait M. Sethna, J.

DATED : 24 December 2025

P.C.:-

1. Heard learned counsel for the parties.

2. The Respondents in these proceedings are duly represented today by their respective counsel. The attention of this Court is drawn to the order dated 22 December 2025 which reads thus :-

> "*1. Heard Mr. Singh, learned counsel for the Applicant.*
>
> *2. Mr. Sujeet K, learned counsel, appears on behalf of the Respondent–Society. There is no appearance or representation on behalf of Respondent No. 1, though Respondent No.1 has been duly served, as stated by the learned counsel for the Applicant.*

3. *Mr. Singh, learned counsel appearing for the Applicant, submits that a Vakalatnama is already on record on behalf of Respondent No. 1 is concerned. Despite the same, nobody has chosen to appear on behalf of Respondent No. 1 today.*

4. *Mr. Singh has drawn the attention of this Court to the order dated 21 November 2016 passed in the present proceedings, wherein this Court had noted and recorded the statement made on behalf of the Applicant to the effect that during the pendency of the suit, Respondent Nos. 2 and 3, namely Respondent No. 1 herein, were not dispossessed. It is submitted that the said statement continues even as on date.*

5. *Mr. Singh further submits that the Applicant has filed an independent suit before the City Civil Court at Mumbai, seeking dispossession of Respondent No. 1 for the reasons set out therein. He submits that the said suit is at an advanced stage i.e. cross-examination of Respondent No. 1. It is also submitted that Respondent No. 1 is being regularly represented in the said proceedings before the Trial Court.*

6. *Considering the aforesaid factual position and particularly the fact that the statement regarding non-dispossession of Respondent No. 1 continues to operate even as on date, this Court is of the view that the present Civil Revision Application No. 581 of 2016 could be disposed of. However, in order to afford one final opportunity to Respondent No. 1 to appear and be represented before this Court, the matter is adjourned.*

7. *Mr. Singh assures the Court that a copy of this order shall be circulated to Respondent No. 1.*

8. *It is made clear that, in the event Respondent No. 1 fails to appear or remain represented before this Court on the next date, despite the order dated 21 November 2016 and the present order, this Court shall endeavour to pass appropriate orders in accordance with law.*

9. *Stand over to* ***24 December 2025****."*

3. Considering the above, the Court has heard learned counsel for the Applicant and the learned counsel for the Respondents respectively. As noted in the order of 22 December 2025 the statement was made on behalf of the Applicant that the possession of the Respondent No.1 in these proceedings would not be disturbed until disposal of the Suit No.3586 of 2009 which is currently ongoing before the Bombay City Civil Court. This statement has been duly accepted by the learned counsel for the Respondent No.1.

4. The up short of the above would be that the impugned judgment and order dated 24 February 2016 passed by the City Civil Court, Borivali, Division, Mumbai in Suit No.633 of 2008 is liable to be set aside. Accordingly, Civil Revision Application is allowed in terms of prayer clauses (a) and (b) which read thus:-

> *"a. That this Hon'ble Court be pleased to set aside the impugned Judgement and Order dated 26th February 2016 (corrected as) 24 February 2016 passed by the Ld. City Civil Court (Borivali Division), Goregaon, Mumbai, in Notice of Motion No.1948 of 2015 in Suit No.633 of 2008;*
>
> *b. That this Hon'ble Court be pleased to reject the plaint filed by Respondent No.1 in Suit No.633 of 2008 filed before the Ld. City Civil Court (Borivali Division), Goregaon, Mumbai, under Order 7 Rule 11 of the Code of Civil Procedure, 1908."*

5. Accordingly, Civil Revision Application is allowed in terms of above. It is made clear that the statement made on behalf of the Applicant which would protect the position of the Respondent until the disposal of the pending suit before

the Trial Court shall continue, until disposal of those proceedings, as noted above. Needless to mention that disposal of these proceedings shall not have any effect, impact and/or implications on the Suit No. 3586 of 2009 pending before the said Trial Court.

6. With the above observations, Civil Revision Application is disposed of. Pending Applications, if any, will also not survive and are disposed of.

7. Needless to mention that all rights and contentions of parties in the pending Civil Suit are expressly kept open as the Court has observed nothing in that regard.

(Advait M. Sethna, J)