

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.486 OF 2024

Lily Ambookan & Ors.

...Applicants

Versus

Stanny Jerom Corriea

...Respondent

Mr. Anand A. Pande i/b Ms. Pooja Pandey, for the Applicants.

Mr. Abhishek T. Ingale a/w Mr. Tejpal Ingale i/b Mr. C. M. Lokesh, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED: 3rd APRIL 2025

P.C.:

1. Heard Mr. Pande, learned Counsel appearing for the Applicants and Mr. Ingale, learned Counsel appearing for the Respondent.

2. By the present Civil Revision Application the challenge is to the legality and the validity of the Judgment and Decree dated 5th September 2022 passed by the learned Appellate Bench of the Small Causes Court, Mumbai in Appeal No.9 of 2015 as well as to the Judgment and Decree dated 22nd December 2014 passed by the learned Judge, Small Causes Court, Mumbai in R.A.E. & R. Suit No.02/03 of 2007.

3. The learned Trial Court as well as the learned Appellate Court have passed the decree on the ground of subletting. There are concurrent findings recorded by both the Courts. Both the Courts have found that the Original Defendant No.1 is a tenant of the suit premises

and the Defendant No.1 has sublet the suit premises to the Defendant No.2. Both the Courts have observed that the Defendant No.1 has not stepped into the witness box and evidence is led by the Defendant No.2. Both the Courts have also taken into consideration that even the electricity meter of the suit premises is also standing in the name of Defendant No.2 and that when the Bailiff went to serve the suit summons, Defendant No.1 did not found occupying the suit premises and wife of the Defendant No.2 informed the Bailiff that the Defendant No.1 was not staying at the address of the suit premises.

4. Thus, both the Courts have held that it is for the Defendant No.1 to explain how the Defendant No.2 is occupying the suit premises. The Defendant No.1 has not led any evidence. The evidence is led by the Defendant No.2

5. As far as the Defendant No.2 is concerned, he has not challenged the impugned Judgment and Decree of eviction.

6. The present Civil Revision Application has been filed by the Applicants who are the legal heirs of deceased Defendant No.1. However, it is shocking to note that Civil Revision Application has been verified by the Defendant No.2 in his capacity as constituted attorney of the Applicants i.e. heirs and legal representatives of the Defendant No.1 and accordingly the present Civil Revision Application is filed by the Applicants through the Defendant No.2. Thus, it is clear that the filing

of the Civil Revision Application itself is an abuse of the process of law.

7. Accordingly, the Civil Revision Application is dismissed with cost of Rs.25,000/-. The cost to be paid within a period of 4 weeks to the Respondent.

8. Mr. Ingale, learned Counsel for the Respondent states that the monthly compensation is deposited by the Applicants before the learned Trial Court. The Respondent is at liberty to withdraw the said amount with accrued interest.

[MADHAV J. JAMDAR, J.]