

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.80 OF 2024

Mangala Krishna Bhagat	...Applicant
<i>Versus</i>	
Babulal Saremal (Deceased) & Ors.	...Respondents

Mr. Saiprasad Dudhane a/w. Mr. S. S. Redekar, for the Applicant.
Mr. Jaydeep Deo, for the Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED : 11th MARCH 2025

PC:-

1. Heard Mr. Dudhane, learned Counsel appearing for the Applicant and Mr. Deo, learned Counsel appearing for the Respondent No.2.

2. Mr. Dudhane, learned Counsel appearing for the Applicant submits that, although only Respondent No.2 i.e. Rajesh Babulal is seeking the possession on the ground of bona fide requirement, the learned Appellate Court has taken into consideration the requirement even of other brothers i.e. Vinod, Girish and Hasmukh and on that basis decree of eviction has been passed. He further states that on the other grounds also the decree passed by the

learned Appellate Court is not in accordance with the evidence on record.

3. Mr. Deo, learned Counsel appearing for the Respondent No.2 submits that as far as other grounds are concerned, the decree has been properly passed and the same is in accordance with the evidence on record. However, he fairly states that while considering the bona fide requirement of the Respondent No.2-Rajesh Babulal, in addition to his requirement, requirement of said Vinod, Girish and Hasmukh has also been considered. In view of the said position, on instructions of the Respondent No.2-Rajesh Babulal, who is personally present in Court he submits that the impugned Judgment and Decree of the learned Appellate Court be quashed and set aside by consent of the parties and the matter be remitted to the learned Appellate Court. He states that as the suit was filed in the year 2001 and the said Appeal was filed in the year 2014, the learned Appellate Court be directed to dispose of the said Appeal within time bound manner.

4. Accordingly, by consent of the parties, the following order is passed:

ORDER

- (a) The Judgment and Decree dated 2nd Deceased 2023 passed by the learned Appellate Bench of the Small Causes Court, Mumbai in Appeal No.156 of 2014 is quashed and set aside.
- (b) The said Appeal No.156 of 2014 is restored to the file of learned Appellate Court for disposal on merits.
- (c) As the said Appeal is restored to the file of learned Appellate Court, the interim relief which was operating in the said Appeal shall also stands restored, subject to the conditions imposed in the order granting stay by the learned Appellate Court.
- (d) As the said Appeal is of the year 2014, the learned Appellate Court is requested to dispose of the said Appeal No.156 of 2014 expeditiously, within a period of one year from today.

5. Accordingly, the Civil Revision Application is disposed of in above terms with no order as to costs.

6. It is clarified that this Court has not considered the merits and all contentions on merits are expressly kept open.

[MADHAV J. JAMDAR, J.]

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