

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.530 OF 2023

Parvati Devendra Ghale ...Applicant

Versus

Indumati Yashwant Mhatre (Deceased) (Deleted)
1a Arjun Yashwant Mhatre & Ors. ...Respondents

WITH
INTERIM APPLICATION NO.6925 OF 2024
IN
CIVIL REVISION APPLICATION NO.530 OF 2023

Parvati Devendra Ghale ...Applicant

Versus

Bharat Yashwant Mhatre ...Respondents
Legal heirs & son of
Indumati Yashwant Mhatre & Ors.

Mr. S. H. Mishra, for the Applicant.

Mr. Rajesh Kachare a/w S. M. Suryawanshi, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.
DATED: 16 APRIL 2025

P.C.:

1. Heard Mr. Mishra, learned Counsel appearing for the Applicant and Mr. Kachare, learned Counsel appearing for the Respondents.
2. By the present Civil Revision Application the challenge is to the legality and validity of the Judgment and Order dated 21st April 2023 passed by the Division Bench of the Small Causes Court at Mumbai in Appeal No.96 of 2021 as well as to the Judgment and Decree dated 18th March 2021 passed by the learned Judge, Small Causes Court at

Mumbai in L. E. Suit No. 22/34 of 2010.

3. Both, the learned Trial Court as well as the learned Appellate Court have held that the Plaintiff has proved that the Plaintiff is the owner of the suit premises, the Defendant is residing in the suit premises as a gratuitous licensee and on the basis of the said findings directed the eviction of the Applicant.

4. The main contention raised by Mr. Mishra, learned Counsel appearing for the Applicant that the Applicant is not the gratuitous licensee but the Applicant is the owner of the suit premises. It is his submission that one Ashok Ramjibhai Patel has sold the suit premises to the Applicant by executing Agreement dated 13th October 2001.

5. The ownership is claimed by the Applicant on the basis of the said unregistered document executed by said Ashok Ramjibhai Patel in favour of the present Applicant. However, it is required to be noted that except the said unregistered agreement there is no other document showing the ownership of said Ashok Ramjibhai Patel. In any case, by unregistered document immovable property having value of more than Rs.100/- can not be sold.

6. In this background of the matter, it is required to be noted that the learned Trial Court has held that the Plaintiff has proved the ownership on the basis of NA permission given in respect of CTS No.1723 in the name of Indumati Yashwant Mhatre vide Order dated

20th June 1998. The learned Trial Court has also taken into consideration the letter / corrigendum dated 18th March 2009 issued by the Additional Tahsildar, Borivali. The relevant discussion is to be found in Paragraph No.16 and 17, which reads as under:

“16. On the other hand, the plaintiff has relied upon carbon copy of letter/corrigendum dated 18.03.2009 at Exhibit-32. By the said letter, the Additional Tahsildar (N.A.), Borivali has passed an order for corrections of record of C.T.S. No. 1723(pt) and ordered to read C.T.S. No. 1933(pt) for C.T.S. No. 1723(pt). From N. A. order annexed with Exhibit-32 it is seen that N.A. permission was given in respect of C.T.S. No. 1723 in the name of Indumati Yashwant Mhatre i.e. plaintiff vide order dated 20.06.1998. From the aforesaid documents, it is clear that previous C.T.S. No. 1723(pt) has been re-numbered to C.T.S. No. 1933(pt) by order of the Competent Authority. The defendant, has merely relied upon the property extract of CTS No. 1933 which shows some different name. Besides said document, the defendant has not brought on record any documentary evidence to show that Yashwant Mhatre Chawl is not constructed on the existing CTS No. 1933. Therefore, contention of the defendant that the plaintiff has not owned the land underneath Chawl is not sustainable.

17. As far as description of the property as mentioned in the plaint is concerned, the plaintiff has specifically claimed that she is owner of Room No. 1 of ‘Yashwant Mhatre Chawl’. Admittedly, there is no Revenue Record in respect of premises erected in ‘Yashwant Mhatre Chawl’. However, electricity bill bearing account No. 101567649 produced by the plaintiff at Exhibit-31 is in respect of Room No. 1 of Yashwant Mhatre House/Chawl. The name of occupier is also mentioned as Yashwant Govind Mhatre i.e. the husband of the plaintiff. Besides that, the plaintiff has also produced on record a letter addressed by Reliance Energy dated 07.04.2018 regarding electricity account No. 101567649 for bill payment through National Automated Clearing House (NACH) process. In said letter, Bank details of Miss. Pooja Devendra Ghale i.e. daughter of the defendant are given by concern company.

Said letter is in respect of Room No. 1 'Yashwant Mhatre House'. Said letter is produced by the plaintiff during cross-examination of the defendant and is taken on record accordingly. It is thus clearly seen that the defendant is residing in the said room No. 1 and paying the electricity bill through bank account of her daughter. The description given by the plaintiff and the supporting documents as well as oral evidence is sufficient to identify the property in dispute as provided under Rule 3 of Order VII of the Civil Procedure Code. Therefore, there is no reason to deny the description of the property in dispute as mentioned by the plaintiff. Therefore, the contention of the defendant that the suit is not maintainable on the ground of false description of the property and ownership of the plaintiff over the suit premises is not sustainable."

7. The learned Appellate Court has confirmed the said findings.
8. It is also an admitted position that the Applicant has filed a separate Civil Suit seeking to establish his title.
9. Accordingly, no interference in the impugned Judgments and Decrees is warranted. The Civil Revision Application is dismissed, however, with no order as to costs.
10. As the Civil Revision Application is dismissed, nothing survives in the Interim Application and the same is also disposed of.
11. At this stage, Mr. Mishra, learned Counsel appearing for the Applicant states that 12 weeks time be granted for challenging this Order. Accordingly, the eviction Order shall not be executed for a period of 12 weeks.

[MADHAV J. JAMDAR, J.]