



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.107 OF 2025
WITH
INTERIM APPLICATION NO. 9728 OF 2025

Mahendra Baliram Gupta ... Applicant

V/s.

Stanley Cyril D SA and Ors. ... Respondents

Mr. Niranjan Mogre with Sujay Gangal, for the applicant.

Mr. Ravindra Samant with Swapna Samant, for the respondent no. 3.

CORAM : N.J. JAMADAR, J.

DATE : 16TH JULY 2025.

PC:

1. The challenge in this Petition is to a judgment and decree dated 3rd January 2025 passed by the Appellate Bench of Court of Small Causes in Appeal (P) No. 271/2015 whereby the appeal preferred by the Petitioner/Defendant against a decree of eviction passed by the Trial Court in LE Suit No. 102/137 of 2009 dated 7th May 2015, came to be dismissed by affirming the decree passed by the Trial Court.

2. The Petitioner claimed to be in the occupation of a premises admeasuring 5 x 5 sq. feet out of a premises admeasuring 75 sq. feet at Patra Shed near Parsee Chawl, Parel, Mumbai (the suit structure).

3. The Respondent / Landlord had initially filed a suit for recovery of possession of the suit structure on statutory grounds.
4. By a judgment and order dated 17th July 2003, the Court of Small Causes dismissed the suit, observing that there was no relationship of landlord and tenant between the petitioner and the respondent and, thus, the respondent could not have invoked the provisions contained in Bombay Rent Act, 1947 for eviction of the Petitioner. The said judgment and decree was affirmed in Appeal No. 464 of 2024 on 24th October 2008.
5. By a notice dated 29 December 2008, the Respondents terminated the licence and sought vacant possession of the suit structure. Eventually, the Respondents filed L.E.Suit No.102/37 of 2009 for eviction. By a judgment and order dated 7 May 2015, learned Judge, Court of Small Causes decreed the suit observing, inter alia, that the licence was lawfully terminated.
6. The Applicant assailed the said order in Appeal No.271 of 2015. During the pendency of the said Appeal, the Municipal Corporation issued notice under Section 152(1) of the Maharashtra Regional and Town Planning Act, 1966 to remove the suit structure for the purpose of widening of Dr. E. Borges Road as the suit structure was within the regular line. Despite resistance by the Applicant, the suit structure came to be demolished.
7. Eventually, by a judgment and order dated 3 January 2025, the Appellate Bench of the Court of Small Causes dismissed the appeal concurring with the findings of the Trial Judge.

7. It is the claim of the Applicant that the Respondent No.3 allegedly has taken possession of redeveloped structure, including the premises in lieu of suit structure. Instead, the Applicant ought to have been put in possession of the redeveloped structure.

8. Mr. Mogre, learned Counsel for the Applicant submitted that the Courts below committed error in passing the decree of eviction as there was material to show that the suit structure was enclosed, though part of the larger premises of 75 sq.ft. In fact, the Applicant had tenancy rights in the subject premises. Since the suit of the landlord for recovery of the possession of the subject structure was dismissed by the Trial as well as Appellate Courts, in the previous round of litigation, the Applicant had no occasion to agitate the claim of tenancy. At any rate, the Applicant ought to have been put in possession of 5 x 5 area out of the redeveloped premises as it was demolished while the Applicant was in the occupation of the suit structure.

9. I am unable to persuade myself to agree with the submissions of Mr. Mogre. The Trial Court in Suit No.927/2500 of 1991 categorically recorded a finding that there was no landlord tenant relationship as the area in the occupation of the applicant was not a room. If the Applicant was aggrieved by the said determination, the Applicant could have filed cross-objection in the appeal preferred by the landlord. The said determination qua the jural relationship between the parties attained finality. Thus, in the Suit No.102/137 of 2009 the only question that was required to be determined was whether the licence of the Applicant was lawfully terminated. Both the Courts have recorded a categorical finding that the licence of the Applicant was

lawfully terminated.

10. In that view of the matter, the Applicant has no semblance of right and interest in the subject structure. Therefore, the Courts below were justified in passing the decree of eviction. This Court in exercise of the revisional jurisdiction does not find any infirmity in the impugned order.

11. The Revision Application stands dismissed.

12. Interim Application No.9728 of 2025 also stands dismissed.

(N.J. JAMADAR, J)