



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.177 OF 2025**

Abdulgani Abdul Rehman Khan ... Applicant
versus
Somvashiya Sahastrarajun Kshtriya Samaj
Trust and Ors. ... Respondents

Mr. Satyajeet Mirajkar, for Applicant.
Mr. Jaydeep Deo with Mr. Omkar Gawade, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 29 JULY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to a judgment and order dated 13 December 2024 passed by the learned District Judge in RCA No.49 of 2024, whereby the appeal preferred by the Petitioner / obstructionist against the order passed by the executing Court on 13 December 2023 came to be dismissed.
3. Mr. Abdul Rehman was the original tenant of the demised premises. Abdul Rehman passed away in 1981. It is the claim of the landlord that after the demise of Abdul Rehman, legal heirs of Abdul Rehman gave consent for the transfer of tenancy in favour of Kadirbhai, step brother of the Petitioner. Since 1984, Kadirbhai has been in occupation of the demised premises as tenant thereof. Eventually, a decree for eviction came to be passed, which

has been affirmed upto the Supreme Court.

4. The Petitioner has taken out an Obstruction Application asserting that he was also carrying on the business at the demised premises as the son of late Abdul Rehman. The landlord instituted a suit for eviction without impleading all the legal heirs of late Abdul Rehman as party Defendants and obtained a decree by practicing fraud and suppression of material facts.

5. The executing Court as well as the Appellate Court have recorded a categorical finding that there is no material to show that the Petitioner has been carrying on the business in demised premises, after the death of Abdul Rehman.

6. Learned Counsel for the Applicant laid emphasis on the fact that in the order passed by the executing Court, it has been recorded that the decree holder had not categorically mentioned the fact that the obstructionist has relinquished his tenancy rights in favour of the Trust and, yet, the Obstruction Application came to be dismissed.

7. There is no substance in the submission sought to be canvassed on behalf of the Applicant. The executing Court and the Appellate Court have consistently recorded that there is not an iota of material to show that over a period of 40 years, the Applicant had been carrying on the business in the demised premises. The period is too long not afford evidence to show that the Applicant has carrying on the business in the demised premises. Even

the fact that the Applicant is the son of Abdul Rehman, born to his first wife, is taken at par, that does not amount to conferment of tenancy unless the Applicant could demonstrate that he was carrying on the business in the demised premises, or for that matter, after the death of the original tenant along with Kadirbhai. In the absence of such evidence, no claim for tenancy could be sustained. The Courts below have not committed any error in passing the impugned orders.

8. The Revision Application stands dismissed.

(N.J.JAMADAR, J.)