



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.232 OF 2025**

Mohammed Aslam Ebrahim Bambotia ... Applicant
versus
Abdul Razak Husein Mansuri and Ors. ... Respondents

Mr. Vishal Kanade i/by Mr. Madhusudan Joshi, for Applicant.
Mr. Pradeep Thorat with Mr. Mohanish Ghatage, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 24 JUNE 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This Revision Application is directed against the judgment and order dated 15 October 2024 passed by the Appellate Bench of the Court of Small Causes at Mumbai in A-1 Appeal No.156 of 2018, whereby the appeal came to be allowed by setting aside the judgment and decree dated 20 February 2018, passed by the Trial Court in R.A.E.Suit No.89/117 of 2010.
3. The Applicant initially instituted a suit for eviction against Respondent Nos.2 and 3 (Defendant Nos.1 and 2), inter alia, on the ground of personal bonafide requirement. Defendant Nos.1 and 2 appeared and claimed that they had surrendered the tenancy rights in the suit premises in favour of Abdul Hamid Ebrahim Bambotia, a brother of the Plaintiff and co-owner of the suit premises. Thereafter, the said Abdul Hamid had executed a registered Tenancy Agreement in favour of Defendant No.3, who was in possession of

the suit premises. Thereupon, the Plaintiff amended the plaint so as to implead Defendant No.3 as party to the suit asserting, inter alia, that the Defendant No.3 was the unlawful occupant in respect of the suit premises. Defendant No.3 had been illegally and unlawfully inducted in the suit premises. Thus, Defendant No.3 was not entitled to any protection under the Maharashtra Rent Control Act, 1999. Therefore, a decree be passed against Defendant No.3 as well.

4. Learned Judge, Court of Small Causes, was persuaded to decree the suit observing, inter alia, that the Plaintiff was not precluded from instituting a suit for recovery of the possession of the suit property as the status of Defendant No.3 was that of unlawful occupant. The issue of reasonable bonafide requirement was answered in favour of the Plaintiff. It was held that the Plaintiff would suffer greater hardship in the event the Court declined to pass a decree for eviction.

5. In the Appeal, the Appellate Bench interfered with the judgment and decree passed by the Trial Judge, primarily on the ground that the Plaintiff did not accept Defendant No.3 as the unlawful tenant of the suit premises. Therefore, in the absence of admitted jural relationship of landlord and tenant between Plaintiff and Defendant No.3, the Court of Small Causes had no jurisdiction to entertain the suit.

6. Mr. Vishal Kanade, learned Counsel for the Applicant, submitted that

the Appellate Court was not justified in interfering with the well reasoned judgment passed by the Trial Judge after appraisal of the evidence and the material on record. In fact, the Appellate Court has not made any effort to come in close quarters with the findings of the Trial Court. The Appellate Court did not independently appreciate the evidence on the points of bonafide requirement and comparative hardship. Therefore, the issue warrants consideration.

7. I am unable to persuade myself to agree with the submissions of Mr. Kanade. Indisputably, Abdul Hamid was the co-owner of the suit premises. The Plaintiff claimed that by executing a writing, Abdul Hamid had given the right of management of the tenanted premises to the Plaintiff, and, therefore, the latter was the sole landlord. Since the Plaintiff instituted the suit in the capacity of a co-owner of the suit premises, the said principle would equally govern where the original tenants (Defendant Nos.1 and 2) surrendered their tenancy in favour of one of the co-owners. Surrender of tenancy was accepted by Abdul Hamid for and on behalf of all the co-owners, like the institution of the suit for eviction by the Plaintiff for and on behalf of all the co-owners. The Appellate Court was, thus, justified in holding that the Plaintiff could not have contested the creation of tenancy by Abdul Hamid in favour of Defendant No.3.

8. Moreover, despite a categorical admission that Abdul Hamid had

executed tenancy agreement in favour of Defendant No.3, the Plaintiff continued to assert that Defendant No.3 was not a tenant in respect of the suit premises and was an unlawful occupant. Such a stand is incompatible with the prayer for eviction of Defendant No.3 on the statutory grounds under the Rent Act.

9. The Appellate Bench was, thus, justified in interfering with the judgment and decree passed by the Trial Judge, as the claim of the Plaintiff was incongruous. No interference is warranted in exercise of limited revisional jurisdiction.

10. The Revision Application, thus, stands dismissed.

(N.J.JAMADAR, J.)