

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.371 OF 2024

Rajendra Ramadhar Mishra	...Applicant
<i>Versus</i>	
Chandrabali Rajnarayan Shukla since deceased through legal heirs 1(A) Daroga Chandrabali Shukla & Ors.	...Respondents

Mr. A. Y. Sakhare, Senior Advocate i/b. Diwakar Dwivedi, for the Applicant.
Mr. D. D. Singh, for the Respondent No.1(B).

CORAM: MADHAV J. JAMDAR, J.
DATED : 12th JANUARY 2026

PC:-

1. Heard Mr. Sakhare, learned Senior Counsel appearing for the Applicant and Mr. Singh, learned Counsel appearing for the Respondent No.1(B).

2. By the present Civil Revision Application, the challenge is to the legality and validity of the Judgment and Decree dated 30th March 2024 passed by the learned Appellate Bench of the Small Causes Court, Mumbai in Appeal No.29 of 2012 in R.A.E. & R. Suit No.378 of 1988 as also the Judgment and Decree dated 23rd April

2012 passed by the learned Judge of the Small Causes Court, Mumbai in R.A.E. & R. Suit No.378 of 1988.

3. Apart from various other contentions, Mr. Sakhare, learned Senior Counsel points out the issues framed by the learned Trial Court (Page Nos. 24 to 26). He submits that a specific issue No.9 has been framed whether the Defendant No.1 i.e. present Applicant proves that the suit premises are declared as slum and hence suit is not maintainable for want of permission of Competent Authority under Section 22 of the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971. He submits that the learned Appellate Court has failed to consider the said issue. He points out the points (Page 75) framed by the learned Appellate Court as also discussion of the learned Appellate Court. He submits that although the said point regarding declaration of slum and therefore, non-maintainability of the suit is specifically mentioned in the Appeal Memo and argued before the learned Appellate Court, the same has been completely ignored by the learned Appellate Court.

4. In view of the above position, Mr. Singh, learned Counsel appearing for the Respondent No.1(B), on instructions, submits that the Judgment and Decree passed by the learned Appellate Court be set aside and the same be remanded back to the learned Appellate Court for consideration of said issue regarding slum declaration and non-maintainability of the suit. He submits that other findings of the learned Appellate Court as regards *bona fide* requirement and hardship be maintained.

5. Mr. Sakhare, learned Senior Counsel, on instructions, submits that the Applicant has no objection for said course of action. However, he submits that in case, the learned Appellate Court confirms the findings of the learned Trial Court with respect to the declaration of slum and maintainability of the suit, then, the Applicant be granted liberty to challenge even the findings and decree passed by the learned Appellate Court with respect to *bona fide* requirement and as also hardship.

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

ORDER

- (a) The Judgment and Decree dated 30th March 2024 passed by the learned Appellate Court in Appeal No.29 of 2012 in R.A.E & R. Suit No.378 of 1988 is quashed and set aside and the said Appeal is remitted to the learned Appellate Court.
- (b) However, it is clarified that the findings recorded by the learned Appellate Court by Judgment and Decree dated 30th March 2024 on the ground of reasonable and *bona fide* requirement and hardship are maintained at this stage. All contentions of both the parties in that behalf are expressly kept open to be agitated in appropriate proceedings including Civil Revision Application after the learned Appellate Court decides the point regarding the slum declaration and maintainability of the suit.
- (c) The Applicant is at liberty to file application for additional evidence in the pending Appeal. The same be considered by the learned Appellate Court on its own merits and in accordance with law. All

contentions in that behalf are also expressly kept open.

- (d) The learned Appellate Court is requested to dispose of the Appeal expeditiously.
- (e) It is clarified that the said Appeal is remanded back only to consider point regarding slum declaration and maintainability of the suit and all contentions of both the parties in that behalf are expressly kept open.
- (f) The Applicant to pay arrears as directed by the learned Appellate Court of monthly compensation on or before 2nd February 2026.

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

[MADHAV J. JAMDAR, J.]

SONALI
MILIND
PATIL

Digitally
signed by
SONALI
MILIND
PATIL
Date:
2026.01.14
19:21:05
+0530