

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 5 OF 2026

Kashinath Vamdeo Rane (since **...Applicant**
deceased) through LRS. Chandrakala
Kashinath Rane & Ors.

V/s.

Baban Laxman Kamble **...Respondent**

Mr. R.M. Haridas *i/b. Mr. Nilesh Wable, for the Applicant.*

Mr. Aniruddha Sapre *with Ms. Amrita B. Singh, for the Respondent.*

CORAM: SANDEEP V. MARNE, J.

Reserved On : 21 April 2026.

Pronounced On : 5 May 2026.

JUDGMENT:

1) The Applicant-Defendant has filed the present Revision Application under Section 115 of the Code of Civil Procedure (**Code**) challenging the judgment and decree dated 3 November 2025 passed by the Appellate Bench of the Small Cases Court dismissing Appeal No. 119 of 2015 and confirming the Trial Court's eviction decree dated 20 January 2015 passed in R.A.E. & R. Suit No. 298/508 of 2000. The eviction of the Defendant is ordered on the grounds of arrears of rent and unlawful subletting.

2) A room admeasuring 10 ft. x 10 ft. in a structure situated at Plot-B/194, Dabholkar Adda, Jijamata Nagar, G.D. Ambedkar Marg, Kalachowki, Mumbai - 400033 are the '**suit premises**'. According to the Respondent-Plaintiff, Kashinath Vamdeo Rane (Defendant) was inducted as tenant in respect of the suit premises on monthly rent of Rs.150/-. Plaintiff claims that the structure on Plot No. B/194 was constructed by his father, which consisted of 6 rooms and one of the rooms was let out to the Defendant. Plaintiff claimed that after the death of his father, Plot No. B/194 was transferred in his name by the Municipal Corporation for Greater Mumbai (**MCGM**). Plaintiff alleged that Defendant was irregular in paying the monthly rent and had sublet the suit premises to one Chandrakant Mangaonkar and had shifted his residence to Dombivali. It was further claimed that Chandrakant Mangaonkar also left the suit premises in September 1999. Plaintiff also accused Defendant of unauthorisedly constructing a loft inside the suit premises.

3) After serving the demand notice, the Plaintiff instituted Suit No. 298/508 of 2000 in the Court of Small Causes seeking recovery of possession of the suit premises from Kashinath Vamdeo Rane (Defendant). Plaintiff did not implead the alleged sublettee as a party defendant to the suit. The suit was decreed *ex parte* in the year 2003. Plaintiff took out Execution Application and an obstruction was presented by Mr. Chandrakant D. Mangaonkar. Accordingly, Obstructionist Notice No.11 of 2005 was filed against Chandrakant Mangaonkar. The Obstructionist Notice was made absolute by the Trial Court on 21 July 2007 directing Obstructionist to handover possession of the suit premises to the Plaintiff. Plaintiff recovered possession of the

suit premises from the Obstructionist. At this juncture, Defendant took out Miscellaneous Application No. 60 of 2008 before the Trial Court for setting aside the *ex parte* decree and for restoration of possession of the suit premises through his power of attorney holder – Chandrakant Mangaonkar. The Trial Court allowed Miscellaneous Application No.60 of 2008 and while restoring the suit, directed the Plaintiff to restore possession of the suit premises to the Defendant. Since Plaintiff failed to restore possession of the suit premises to the Defendant, Execution Application No. 674 of 2009 was filed and this is how Defendant secured back possession of the suit premises on or about 5 November 2009 and thereafter the Defendant appeared in the suit and filed written statement.

4) Defendant claimed that he purchased the open plot admeasuring 10 ft. x 10 ft. from the widow of one Shri. Betkar for consideration of Rs.80/- and constructed a hut thereat in the year 1959. That the land belongs to the Municipal Corporation. Defendant denied the title of the Plaintiff in respect of the suit premises and claimed that he himself was the owner thereof. Defendant justified his action in permitting Chandrakant Mangaonkar to reside in the suit premises on humanitarian grounds and free of cost. Defendant also claimed that the concerned land was declared as slum land and that therefore the suit was not maintainable. Based on the pleadings, the Trial Court framed issues. Parties led evidence in support of their respective claims. Plaintiff examined himself and Advocate Suresh Rajeshwar and relied on several documents. Defendant filed his own affidavit of evidence and also examined Bhushan Yeragi (D.W.2). After considering the pleadings,

documentary and oral evidence, the Trial Court proceeded to decree the suit by holding that Plaintiff is the owner of the suit premises and that the Defendant was inducted as a monthly tenant in respect thereof. The Trial Court held that Defendant failed to prove that he had purchased the open plot from the widow of Shri. Betkar and had constructed a hut thereat in 1959. The Trial Court held that the Defendant failed to prove that the concerned land was declared as slum. The Trial Court accepted the ground of default in payment of rent and unlawful subletting. By decreeing the suit, the Trial Court directed the Defendant to handover possession of the suit premises to the Plaintiff. Defendant was also directed to pay arrears of rent of Rs.1950/- to the Plaintiff. An order for conduct of an enquiry into mesne profits was also made.

5) The Defendant filed Appeal No. 119 of 2015 before the Appellate Bench of the Small Causes Court challenging the eviction decree. During pendency of the Appeal, the Defendant passed away and his legal heirs were brought on record. The Appellate Court has however dismissed the appeal vide judgment and order dated 3 November 2025. Aggrieved by the Appellate Court's decree dated 3 November 2025, the heirs of the Applicant/Defendant have filed the present Revision Application.

6) By order dated 13 January 2026, this Court directed that no coercive steps be taken against the Applicant in pursuance of the eviction decree. The Revision Application is taken up for final hearing.

7) Mr. Haridas, the learned counsel appearing for the Applicant submits that the Trial and Appellate Courts have grossly erred in decreeing the eviction suit of the Plaintiff. He submits that there is no landlord-tenant relationship between the parties. That Defendant claimed ownership in respect of the suit premises and has never paid rent to the Plaintiff. That the burden of proving landlord-tenant relationship was on the Plaintiff, who has failed to discharge the same by producing evidence of creation of tenancy by payment of rent. He submits that therefore the Trial Court lacked jurisdiction to try and entertain the suit in absence of landlord-tenant relationship. He further submits that the suit premises are Vacant Land Tenancy (VLT) on land belonging to Municipal Corporation. That therefore there is no question of Plaintiff being the owner of the suit premises. He further submits that the land is already declared as slum. That the occupier therefore is entitled to avail the benefits of rehabilitation. That the case clearly involved mere occupancy rights in respect of the slum structure and not letting off the premises by the owner to the tenant. That the Plaintiff cannot be an owner in respect to the slum structure constructed on land of MCGM. That Plaintiff's witness gave specific admissions of non-availability of any evidence relating to creation of tenancy. That there was no question of payment of any rent to the Plaintiff and therefore, the ground of default in payment of rent is erroneously accepted. That since Defendant is not the tenant, mere induction of Mr. Mangaonkar in the suit premises cannot attract the folly of unlawful subletting under Section 16(1)(e) of the Maharashtra Rent Control Act, 1999 (**MRC Act**). That mere stray admission given by D.W.2 cannot be a ground for assuming existence of landlord-tenant relationship. That the plaint was

clearly defective as the actual occupier of the premises (Chandrakant Mangaonkar) was never impleaded as party defendant to the suit. Mr. Haridas would accordingly pray for setting aside the impugned decrees.

8) The Revision Application is opposed by Mr. Sapre, the learned counsel appearing for the Respondent, who submits that the Trial and Appellate Courts have recorded concurrent findings against the Defendant relating to ownership of the suit structure, as well as about existence of landlord-tenant relationship. That there are concurrent findings on the issue of default in payment of rent and unlawful subletting. That no interference is warranted in such finding in exercise of revisionary jurisdiction under Section 115 of the Code. Mr. Sapre relies on evidence of D.W.2-Bhushan Suryakant Yeragi in which he gave specific admissions of Defendant being tenant of the Plaintiff in respect of the suit premises. He submits that once the ownership of the Plaintiff in respect of the suit premises is established, presence of Defendant in the suit premises would necessarily be in a capacity as a tenant. That Defendant raised baseless plea of ownership in respect of the suit premises and once the plea of ownership is rejected, existence of landlord-tenant relationship automatically gets established. He submits that the Defendant has long since vacated the suit premises and the entire litigation is driven by Mangaonkar family against whom order was passed in obstructionist proceedings, rejecting the claim of Chandrakant Mangaonkar about existence of his independent right to occupy the suit premises. That Defendant-tenant has no interest left in the suit premises and the present Revision Application is actually filed by the son of Chandrakant Mangaonkar on the basis of power of attorney. That

Chandrakant Mangaonkar is already allotted another premises on account of his status as a Mill worker. That the Plaintiff had already recovered possession of the suit premises from Chandrakant Mangaonkar, who is delaying execution of eviction decree by filing litigations on behalf of the tenant, who is no longer interested in protecting the tenancy rights. That non-payment of rent and unlawful subletting is an admitted position. That therefore no interference is warranted in the impugned eviction decree. He prays for dismissal of the Revision Application.

9) Rival contentions of the parties now fall for my consideration.

10) The suit premises are a room admeasuring 10 ft. x 10 ft. in a structure constructed on Plot No.B/194 at Dabholkar Adda, Jijamata Nagar, G.D. Ambedkar Marg, Kalachowki, Mumbai, 400033. There is no dispute to the position that the land on which structure is constructed belongs to the Municipal Corporation. Plaintiff claims that he is the allottee in respect of Plot No.B/194 by the Municipal Corporation and that he has constructed a structure comprising of six rooms on the said plot. One out of the said six rooms are the suit premises. Plaintiff claimed that he inducted Defendant as a tenant in respect of the suit premises on monthly rent of Rs.150/-.

11) On the other hand, Defendant questioned the title of the Plaintiff in respect of the suit premises. He contended that he is residing in the suit premises since 1954. He claims to have purchased the land

admeasuring 10 ft. x 10 ft. from widow of one Shri. Betkar and had constructed a hut. In addition, Defendant also claimed ownership in respect of the suit premises.

12) In a suit filed by landlord for eviction of tenant, detailed enquiry into title is not necessary. Small Causes Court cannot be a forum before which Plaintiff and Defendants can establish their title in respect of the suit premises. For maintaining eviction action under MRC Act, it is incumbent for the Plaintiff to prove existence of landlord-tenant relationship. Ordinarily, existence of landlord-tenant relationship can be gathered from the Rent Agreement executed between the parties.

13) In the present case, though Plaintiff could not lead direct evidence of creation of tenancy in the form of production of rent agreement, rent receipt or proof of payment of rent, there is some oral evidence on record to infer existence of landlord-tenant relationship. While conducting cross-examination of the Plaintiff, Defendant's Advocate gave suggestion to the Plaintiff about payment of rent of Rs.150/- and the said suggestion was accepted by the Plaintiff. This is clear from the following deposition of P.W.1 "*It is true that the defendant was paying Rs.150/- towards rent*". The Defendant's advocate also gave suggestion to P.W.1 about grant of permission by the father of the Plaintiff to occupy the premises by the Defendant. This is clear from the following deposition of P.W. 1 in his cross-examination "*The defendant was allowed to stay in the suit premises in the year 1972-73 by my father*". Though mere grant of permission to occupy the premises may not strictly give rise to presumption of creation of tenancy, the suggestion

assumes importance in the light of defence taken by the Defendant that he constructed the structure and he was the owner thereof. Contrary to his own defence, Defendant gave specific admission that Plaintiff's father allowed him to stay in the suit premises in the year 1972-73. The Defendant's case got completely destroyed when he examined Mr. Bhushan Yeragi as D.W.2. The said witness gave clear admissions in his cross-examination as under:

"It is true to say that defendant Kashinath Rane is the tenant of the suit premises.... Defendant Kashinath Rane is the tenant of Laxman Kamble'.

14) In my view, in the light of the above admissions coming in the evidence, existence of landlord-tenant relationship got squarely proved. As observed above, Defendant raised the claim of he constructing the structure and he being the owner thereof, which defence got completely disproved. If the above suggestions given to P.W.1 and admissions given by D.W.2 are taken into consideration in the context of line of defence adopted by the Defendant, it leaves no manner of doubt that Defendant was the tenant in respect of the suit premises. The Trial Court has recorded following findings for holding that Defendant is the tenant of the Plaintiff:

18. Thus the plaintiff has proved that, he is landlord of plot No.B-194, i.e. suit property. He has also proved that, the said 10' x 10' sq. ft. room is the part an parcel of suit property. Now onus shifts upon defendant to show in what capacity he is possessing that room. D.W.2 Mr. Bhaskar Yeragi who is defendant's own witness has admitted in his cross examination that, defendant is tenant of plaintiff. As discussed in above paras, defendant miserably failed to prove that, he is the owner of the plot and he has constructed that hut. Under such circumstances, I left no option, but to accept plaintiffs contention that, defendant is his tenant as theory set out by the plaintiff is more consistent and probable than the theory of defendant. Thus it is proved that, defendant is the tenant of plaintiff with respect to suit premises. On perusal of copy of demand notice vide Exh.63, it can be seen that, plaintiff has sought arrears of rent at the rate of Rs.150/-p.m. and same has been reflected in the plaint as well as

evidence of P.W.1. Except denial of the same, defendant has not brought any positive evidence to that effect. Hence, I left no option but to accept the same.

15) Similarly, the Appellate Court has recorded following findings in para-22 of the judgment on the issue of landlord-tenant relationship:

22. It is pertinent to note that, on 16.09.2013, it was suggested to plaintiff during cross-examination that defendant was paying Rs. 150/- towards rent. This suggestion was accepted by plaintiff Baban. Further, it came in the further cross-examination of that day that, plaintiff's father permitted defendant to stay in the suit premises. These suggestions are exactly opposite to the contentions that defendant purchased the open plot. If it was so, then what was the need to the defendant to pay the rent, as suggested. Moreover, defendant stated during his cross-examination that the statement in his evidence affidavit about purchase of plot in year 1954 and construction of hut in year 1959 was a false statement.

16) I am in agreement with the above concurrent findings recorded by the Trial and the Appellate Courts on the issue of existence of landlord-tenant relationship.

17) Also, Articles of Agreement executed with MCGM shows that rights in respect of the concerned land (*VLT Plot No. B-194*) are in the name of Plaintiff-Baban Laxman Kamble.

18) Once landlord-tenant relationship is proved, the grounds of default in payment of rent and unlawful subletting automatically gets proved. Defendant has admitted non-payment of rent. He has also admitted induction of Chandrakant Mangaonkar in the suit premises. Therefore, it is not necessary to discuss the evidence on the issues of default in payment of rent and unlawful subletting. Chandrakant Mangaonkar/his son is ultimately found to be in possession of the suit

premises. Chandrakant Mangaonkar obstructed the earlier *ex parte* decree and was removed from the suit premises. He later used the Power of Attorney to get the *ex parte* decree set aside, contested the suit, filed Appeal before the Appellate Bench and has even filed the present Revision Application. The act of unlawful subletting is thus conclusively established. In view of the above, I am not inclined to interfere in the concurrent findings recorded by the Trial and the Appellate Courts on the issue of absence of Defendant's ownership in respect of the suit structure and existence of landlord-tenant relationship. Non-payment of rent and induction of Chandrakant Mangaonkar are admitted facts and accordingly, grounds of default in payment of rent and unlawful subletting are clearly established.

19) Filing and prosecution of the present Revision Application is also not a *bona fide* act. Chandrakant Mangaonkar first attempted to establish his independent right to occupy the premises and after being unsuccessful in doing so, he/his son turned around and sought setting aside the *ex parte* decree in the name of Defendant No. 1-tenant, by using the Power of Attorney executed by him. Thereafter the entire litigation is driven by the son of Chandrakant Mangaonkar. This Court cannot otherwise be party to the design engineered by the Obstructionist to somehow delay his eviction after having lost in the Obstructionist Notice 19 years ago on 21 July 2007. It has also come on record that Chandrakant Mangaonkar is an allottee of another premises in his capacity as a Mill worker. That allotment must be on the strength of absence of any house by Chandrakant Mangaonkar. The Suit was instituted in the year 2000. The original tenant in whose favour the

tenancy was created is no where in the picture. The Obstructionist has successfully prevented the Plaintiff from using the premises for the last 16 long years. Time has come for the son of the Obstructionist to vacate the premises.

20) The Civil Revision Application is thus devoid of merits. It is accordingly dismissed without any order as to costs.

[SANDEEP V. MARNE, J.]

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