

(2011) 05 GUJ CK 0149

In the Gujarat High Court

Case No : Civil Revision Application No. 87 of 2001

Bhadraben Ranchhodlal Parikh and Others

APPELLANT

Vs

Bhanuprasad Shankerlal Vyas

RESPONDENT

Date of Decision : 09-05-2011

Acts Referred:

Citation : (2011) 05 GUJ CK 0149

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : D.R. Bhatt, s 1-3, for the Appellant; A.R. Majmudar, for Opponent 1, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Jhaveri, J.—This revision has been preferred against the judgment and order passed by the learned Asst. Judge, Vadodara in Regular Civil Appeal No. 16/1997 dated 21.12.2000 whereby, the said appeal was rejected and the judgment and decree passed by the learned Addl. Small Causes Judge, Vadodara in Rent Suit No. 16/1994 dated 12.12.1996 was confirmed.

2. The facts in brief are that the Respondent herein is the owner of the property bearing Municipal Census No. A/04/111000000/102 situated in the City of Vadodara. The said property is a three-storied building and the applicants, original Defendants were the tenants of one room and kitchen on the first floor of the said building on a monthly rent of Rs. 15/-. The Respondent preferred Rent Suit No. 16/1994 against the applicants, original Defendants before the Small Causes Court, Vadodara to recover possession of suit property on the ground of non-user and acquisition of alternative accommodation. After hearing both the sides, the trial Court decreed the suit in favour of the Respondent vide judgment and decree dated 12.12.1996 and the applicants were directed to hand over peaceful and vacant possession of the suit premises to the Respondent on or before 31.03.1997.

3. Against the said order, the applicants preferred Regular Civil Appeal No. 16/1997 before the District Court, Vadodara. The lower appellate Court rejected the said appeal filed by the applicants vide order dated 21.12.2000. Hence, this application.

4. Heard learned Counsel for the respective parties and perused the documents on record. In her deposition before the trial Court, applicant No. 1 herein had admitted that her elder son, Jagdishbhai, had acquired an alternative residential accommodation in the same City. The Court Commissioner was also appointed to prepare a panchnama of the new acquired premises and the suit premises. After considering the evidence of applicant No. 1 herein and the panchnama prepared by the Court Commissioner, the trial Court came to the conclusion that the applicants herein had acquired alternative residential premises in the same City.

5. It is an admitted fact that Govindlal Shah, the husband of applicant No. 1 and father of applicant Nos. 2 and 3 herein, was the original tenant of the suit premises and that after his death, all the three applicants had acquired tenancy rights over the suit property. When it is established on record that all the three applicants were residing together, which is a fact admitted by applicant No. 1 in her cross-examination, then the acquisition of suitable residential accommodation by any one of them would be considered to be acquisition of suitable residential accommodation by the tenant. Thus, it has to be said that the premises acquired by the applicants at an alternative place, is a suitable residential accommodation for all the applicants.

6. After considering each and every aspect of the case, both the Courts below held in favour of the Respondent. I am in complete agreement with the concurrent findings arrived at by both the Courts below and hence, find no reasons to entertain this application.

7. For the foregoing reasons, the application is dismissed. Rule is discharged. Interim relief stands vacated. It is observed that if the applicants file an Undertaking within a period of two weeks from today before the trial Court concerned that they would vacate the suit premises before 31st December 2011 and that they would not transfer, alienate, mortgage or create any third party interest in the suit property and also that they would regularly pay mesne profits, the execution shall remain in abeyance until that date; lest necessary legal action shall follow forthwith.