

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 98 OF 2007
WITH
CIVIL APPLICATION NO. 581 OF 2007
IN
S.A. NO. 98 / 2007

Asarabai W/o. Dagadu Deore .. Appellant.

V/s.

Yeshwant Hari Thatte (since deceased)
1-A. Dhananjay Y. Thatte & Ors. .. Respondents.

Mr. V.A. Sugdare for the Appellant.

Mr. S.M. Gorwadkar for the Respondents Nos. 1-A & 1-B.

CORAM : S. A. BOBDE, J.

DATED : 31ST AUGUST, 2007.

P.C. :-

. This is a second appeal by a licensee against a concurrent finding of the courts below that he is liable to be evicted. The appellant was a licensee in respect of an open piece of land which had been granted to him for parching of bricks by an oral agreement for a period of six months. Upon expiry, the respondent sued him for an eviction. The courts below have granted the decree.

2. The only contention raised by the learned

counsel for the appellant is that since he was in possession as a licensee on 1st February, 1973, he is entitled to the status as a tenant of the respondent in respect of the premises in his occupation. Section 15 A of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 , reads as follows :

[15A : Certain licensees in occupation on 1st February 1973 to becomes tenants.

(1) Notwithstanding anything contained elsewhere in this Act or anything contrary in any other law for the time being in force, or in any contract where any person is on the 1st day of February 1973 in occupation of any premises, or any part thereof which is not less than a room, as a licensee he shall on that date be deemed to have become, for the purpose of this Act, the tenant of the landlord, in respect of the premises or part thereof, in his occupation."

3. The above section clearly does not protect the appellant since the premises contemplated by section 15A can only be premises in the nature of a room since the said section grants protection only in respect of the

premises or any part thereof "which is not less than a room". This view was taken by the learned single Judge of this court in **Tukaram Sawant vs. Smt. Mangalalaxmi Chinubhai Shah & Ors.** (1989 (3) Bom. C.R. 313). I am in respectful agreement with that view.

4. No other contention is raised on behalf of the appellant. Hence, the appeal is dismissed. Nothing survives in the Civil Application and the same is also disposed of accordingly.

(S.A.BOBDE, J.)

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