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**(CNR NO.MHSCA3-001290-2022)**  
**IN THE COURT OF SMALL CAUSES AT MUMBAI**  
**(BANDRA BRANCH)**  
**ORDER BELOW EXHIBIT NO.9**  
**IN**  
**R.A.E.&.R. SUIT NO.547 OF 2022**

Mr. Girish Bholanath Shukla ... Plaintiff

Versus

Mr. Jaydev Mahadev Tandel ... Defendant

Shri. Ashutosh Singh, Advocate for the plaintiff.

Shri. Nimish P. Lotlikar, Advocate for the defendant.

**Coram : Shri. A. J. Fatale, Judge.**  
**C.R.No.34 (BB).**  
**Date : 07.12.2023.**

**ORAL ORDER :-**

1. Perused the application, reply filed by C.A. of plaintiff and record.
2. After granting ample opportunity, neither defendant nor plaintiff advanced their arguments. No argument order passed on 25.10.2023.
3. Present application is filed by defendant for rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure.
4. It is contended by defendant that suit property being situated on CTS No.375 (pt) and 371/1 to 27 of Majas City Survey,

Anand Nagar, Jogeshwari Vikroli Link Road, Jogeshwari (East) is declared as slum area u/s.4(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 on 09.09.1977. Plaintiff has filed the suit without taking written permission u/s.22 of the said Slum Act from Competent Authority before institution of present suit. Hence, in absence of prior written permission from the Competent Authority u/s.22 of the said Slum Act, this Court is not having jurisdiction to try and entertain the present suit. Hence, defendant prayed for rejection of the plaint.

5. C.A. of plaintiff has filed reply vide Exhibit No.10 and opposed the application. It is the contention of plaintiff that piece and parcel of land bearing CTS No.375 part, 371 part and 371/1 to 27 of Majas City Survey, in the registration District and Sub-District Bombay City and Bombay Suburban now in Greater Bombay situated at Anand Nagar, Jogeshwari-Vikroli Link Road, Jogeshwari (East) was allegedly twice declared as slum by the Deputy Collector, however on both the occasions the said orders of declaration of slum were set aside by Maharashtra Slum Areas (I.C.&R.) Tribunal. Plaintiff has rightly mentioned in paragraph No.25 of the plaint that the said land on which the suit premises is situated not declared as slum or does not fall within slum. Hence, question of obtaining permission from Competent Authority does not arise at all. Defendant should have brought this objection of maintainability of suit by taking defence in written statement. However, till date defendant has not filed written statement. Defendant is also aware that the suit premises does not fall within slum area, however, in order to waste the time of the

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Court defendant has filed present application. Plaintiff lastly prayed for rejection of the application with heavy compensatory costs.

6. I have gone through the record and proceeding of the matter. It is settled principle of law that at the time of deciding application filed under Order VII Rule 11 of the Code of Civil Procedure, only pleadings of plaintiff is required to be taken into consideration. On going through the plaint, it appears that plaintiff has filed suit for eviction and possession and for other reliefs on the grounds of default in payment of arrears of rent, carrying out unauthorizedly additions and alterations of permanent nature, committing waste to the property and causing annoyance to other tenants, more particularly mentioned in the plaint.

7. It is pleadings of plaintiff that plaintiff is the son and heir and legal representative of late Smt. Mohnadevi Bholanath Shukla and also the landlord of suit property. Present suit is filed by plaintiff through his lawful attorney holder namely Anshuman Girish Shukla i.e. his son.

8. It is further pleaded by plaintiff in the plaint that defendant is monthly tenant of plaintiff in respect of room No.4, admeasuring 150 sq.ft. approximately situated at Devi Kutir Chawl No.3, situated at Anand Nagar, Jogeshwari Vikroli Link Road, Jogeshwari (E), Mumbai-400 060 situated on the suit land. In paragraph No.25 of the plaint, plaintiff has averred that the suit premises does not fall in the Slum Area and the provisions of the Slum Act do not apply. Present suit filed by the plaintiff on 14.10.2022.

9. It appears from record that defendant has filed the copy Maharashtra Government Gazette dated 09.09.1977 along-with present application and contended by defendant that suit property being situated on CTS No.375 (pt) and 371/1 to 27 of Majas City Survey, Anand Nagar, Jogeshwari Vikroli Link Road, Jogeshwari (East) is declared as slum area u/s.4(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 on 09.09.1977. Moreover, plaintiff has filed along-with reply, the copy of order dated 21.03.2022 passed by President, Maharashtra Slum Areas (I.C.&R.) Tribunal in Appeal No.14 of 2022, wherein it is ordered that the Impugned Notification bearing no.DCA/Enc/RMND/220/Pratap Nagar dated 12.01.1984, passed by Deputy Collector (Enc) and Competent Authority, Andheri, published in Maharashtra Government Gazette dated 26.01.1984 in respect of land bearing CTS No.375 (part) and CTS No.371 (part), 371/1 to 27 admeasuring 1380 square meters, situated at Village – Pratap Nagar, Shiv Tekdi, Gumpha Tekdi, Smashan Tekdi, Anand Nagar, Village Majas, is hereby quashed and set aside. It is pertinent to note here that in the said order it is mentioned that the Notification dated 09.09.1977 was set aside on 16.08.1979 and the Competent Authority was directed to reconsider the cases after giving each appellant sufficient opportunity of showing cause against the proposed declaration. So, prima facie it appears from record that the alleged notification dated 09.09.1977 is set aside and also Notification dated 26.01.1984 also set aside by the Hon'ble President, Maharashtra Slum Area (I.C.&R.) Tribunal on 21.03.2022. Present suit appears to be filed after 21.03.2022. So, considering facts on record, at this stage it cannot be said that present suit filed by the

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plaintiff is barred by law due to want of permission from the Competent Authority as per Section 22 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

10. Considering the facts and circumstances on record, in my opinion, application filed by defendant is liable to be rejected. Hence, I pass the following order:-

**: ORDER :**

1. Application stands rejected.
2. No order as to costs.

Date : 07.12.2023

Sd/-.  
(A. J. Fatale)  
Judge, C.R.No.34(BB).

Order Dictated & Typed on  
Order Checked & Signed on

: 07.12.2023  
: 11.12.2023