

:1: Ex. 9 RAD 1421-2018 dt 26.11.18

CNR No. MHSCA20030252018

IN THE COURT OF SMALL CAUSES AT MUMBAI

**EXHIBIT NO. 9
IN
R.A.D. SUIT NO. 1421 OF 2018**

Mr. Dorab Burjorji Elavia Plaintiff .

V/s.

1. Funds & Properties of the Parsi Panchayat Defendants
Bombay and ors.

Mr. Prashant V. Tikare : Ld. Advocate for the plaintiff.

A. A. Sapre : Ld. Advocate for the defendants.

Coram : G.L. Masand, Judge.
C. R. No. 16.
Date : 26.11.2018.

ORAL ORDER :-

Heard both sides. According to plaintiff he is in possession of suit premises and has apprehension that he may be dispossessed by defendants and produced three electricity bills for the month of July 2018, October and November 2018 to show that he has paid the bills by cheques and have also produced one document to show that one electric bill was paid by cheque. He has also produced photographs. According to him these photographs are in respect of suit premises. According to him even court commissioner can be appointed to ascertain factual position of possession.

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2. Other side has filed various documents including the letter/affidavit dated 4.4.2018 to show that defendant No. 9 has surrendered the tenancy in respect of suit premises and has also handed over the possession. Therefore at this juncture it is not certain as to whether plaintiff is in possession or defendants are in possession therefore order in respect of maintaining status-quo cannot be passed. Even court commissioner cannot be appointed to verify as to who is in possession of the suit premises because it is nothing but will be collection of evidence which is not permitted under law.

3. For maintaining status quo plaintiff has to prove that what is position as on today. As plaintiff failed to prove such position therefore he is not entitled to any order directing defendants to maintain status-quo . Therefore prayer for maintaining status-quo is rejected. Defendants do file their reply on next date.

MUMBAI
Date : 26.11.2018

(G.L. Masand)
Judge, C.R. No.16

Order dictated on Computer : 26.11.2018.
Order Checked & signed on : 26.11.2018.