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[EXHIBIT-32]

[CNR No.MHSCA20029112018]

Presented on : 02.11.2018
Registered on : 21.11.2018
Decided on : 29.04.2022
Period required for disposal
03 Years, 05 Months, 27 Days

IN THE COURT OF SMALL CAUSES AT MUMBAI

R.A.D. SUIT NO.1489 OF 2018

Mrs. Manasi Shyamsundar Kelkar)
Age : 60 Years, Occupation : Housewife,)
Indian Inhabitant of Mumbai,)
Having her permanent residence at :)
102/A Madhavwadi, 3rd floor, Room No.03/04,)
Mumbai Marathi Granth Sangrahalay Marg,)
Dadar, Mumbai – 400 014)...Plaintiff

Versus

Mrs. Swati Vijayanand Shete)
Age : Adult-Unknown, Occupation : Business)
Indian Inhabitant of Pune,)
Residing at : 23, Mukund Nagar,)
Gupte Apartment, Pune – 411 037)...Defendants

Shri. Ghanshyam B. Sakpal : Ld. Adv. for the Plaintiff
Defendant : Ex-parte

Coram : D. S. Dabhade,
Judge, C. R. No. 17
Date : 29.04.2022

ORAL JUDGMENT : (Ex-parte)

This is a suit for declaration. The defendant is owner of the property known as A-6 Shete Estate, Mumbai Marathi Granth

Sangrahalay Marg, Dadar, Mumbai – 400 014 (hereinafter referred as “suit property”). The defendant being owner entitled to receive rent from the plaintiff and issue rent receipts in respect of **Room No.102A, D-3 & D-4**, A-6, Shete Estate, Mumbai Marathi Granth Sangrahalay Marg, Dadar – East, Mumbai – 400 014 (hereinafter referred as “suit premises”). Dattatray Hari Kelkar was permanently residing at the address of the cause title of the plaint. He died intestate leaving behind him his three sons namely Sudhakar Dattatray Kelkar, Ramesh Dattatray Kelkar, Shyamsundar Dattatray Kelkar and four daughters namely Mrs. Sharada Ganesh Kale, Mrs. Nilima Prahakar Khare, Mrs. Nila Hari Pethe and Mrs. Vaishali Vasant Gadre, all are married and residing with their respective families, while first daughter Mrs. Sharada Ganesh Kale was died intestate on 14.06.1978.

2. The plaintiff had lawfully married to Shyamsundar Dattatray Kelkar on 27.04.1990 as per Hindu customs and rituals. She is widow of late Shyamsundar Dattatray Kelkar. Before and even after his demise on 31.12.2002, the plaintiff is residing on the same address from last 28 years till date. After demise of late Dattatray Hari Kelkar, the rest of the legal heirs except his daughters, were residing in the suit premises.

3. The suit premises is having two entrance doors which is named as D-3 and D-4. Out of which D-3 is still in the name of Late Dattatray Hari Kelkar who was father-in-law of the plaintiff. The original rent receipts for D-3 entrance door of the said premises were in the name of late Dattatray Hari Kelkar and D-4 entrance door rent receipt was in the name of plaintiff's husband. Though, there are two entrance door names to the suit premises but factually there is only door

to the suit premises. After demises of Laxmibai Dattatray Kelkar i.e. mother-in-law of plaintiff, Ramesh Dattatray Kelkar i.e. brother-in-law of plaintiff and plaintiff's husband Shyamsundar Kelkar, the plaintiff and late Sudhakar Kelkar were only people residing in the suit premises. As per knowledge of the plaintiff, late Sudhakar Kelkar did not approach the defendant or her predecessors to transfer the rent receipt and tenancy title of the suit premises in his name or in plaintiff's name.

4. The plaintiff is paying rent of the suit premises including service charges. She has paid an advance rent upto 31.03.2019. The defendant is adamantly not accepting the request of the plaintiff to transfer the rent receipt and tenancy title in her name, being the legal heir of Late Shyamsundar Kelkar. Plaintiff and her husband requested to take appropriate actions against such neighbours to the defendant including Police and other Statutory Administrative Bodies such as B.M.C. Such incidences have adversely effected on the relations of the plaintiff and defendant landlord.

5. The plaintiff is a widow and not having any children behind her demised husband Late Shyamsundar Kelkar. She is having only protection of suit premises as shelter. It is just and necessary that the rent receipts and tenancy title of the suit premises shall be transferred in her name. The plaintiff had sent notice dt. 06.08.2018 to the defendant for legally transferring the rent receipts in her name, which was unclaimed returned to her on 14.08.2018. Therefore, the plaintiff prayed for declaration of tenancy in respect of the suit premises and to restrain the defendant by order of temporary injunction from disturbing the possession of the plaintiff in the suit premises.

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6. In spite of service of suit summons, the defendant not appeared and contested the suit. Hence, by order dt. 18.01.2020 passed on plaint Exh.1, the suit was proceeded ex-parte against her.

7. The points for my determination alongwith my findings thereon are as under :

POINTS

FINDINGS

- | | |
|--|--------------------|
| 1. Whether the plaintiff is entitled for declaration as tenant of the suit premises ? | Yes |
| 2. Whether plaintiff is entitled for directing the defendant to issue rent receipt in the name of plaintiff by accepting rent in respect of the suit premises as sought by the plaintiff ? | Yes |
| 3. What Order ? | As per final order |

REASONS

AS TO POINT NOS.1 TO 3:-

8. In order to prove her case, the plaintiff examined herself by filing affidavit of examination-in-chief **Exh.17** in lieu of oral evidence. In support of her contention, she also relied on various documents. Plaintiff's claim remained unchallenged as the defendant neither appeared nor filed written statement nor cross-examined the plaintiff nor in rebuttal plaintiff's case filed her own evidence. Thus the contentions of the plaintiff on all above three points raised by her in pleadings has been proved during her evidence remained unshattered.

9. By her testimony, the plaintiff has proved the documents such as death certificate of Shyamsundar Kelkar **Exh.19**, death

certificates of Dattatray Hari Kelkar **Exh.20/1** and Ramesh Dattatray Kelkar **Exh.20/2**, marriage certificate of plaintiff and her husband late Shyamsundar Kelkar **Exh.21**, Aadhar Card **Exh.22**, Election Card **Exh.23**, **Exh.24**, electricity bills **Exh.25 Colly.**, telephone bill **Exh.26**, rent receipts **Exh.27 Colly.**, copies of complaints and correspondences placed between the plaintiff and defendant with respect to unhygienic environment and offensive neighborhood **Exh.28 Colly. (1-14)**, copies of correspondences encountered between plaintiff and MHADA authorities **Exh.29 Colly. (1-10)**, unclaimed notices and postal receipts **Exh.30 Colly. (1-12)**. The plaintiff has filed evidence closing pursis **Exh.31**.

10. On perusal of said documents, it appears that the plaintiff is married with Shyamsundar Dattatray Kelkar who as well as his father and brothers are died. Since the date of marriage, the plaintiff is residing in the suit premises and to show the same, she has filed various documents on record. There are several rent receipts filed at Exh.27 Colly. wherefrom, it has been cleared that rent of the suit premises has been paid even after demise of original tenant Dattatray Hari Kelkar and demise of husband of plaintiff. But all said rent receipts have been issued only on the name of original deceased tenant. Considering the said documents, it is cleared that the plaintiff is residing in the suit premises after demise of her husband, father-in-law and brothers-in-laws. Even after paper publication of suit summons, nobody appeared to challenge the claim of the plaintiff and to establish her claim. From the said documents, it has been proved that she is alone residing in the suit premises being a member and successor of the original tenant. Therefore, she is entitled for declaration of tenancy right and transfer of rent

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receipts of the suit premises on her name. Hence, I answer point Nos.1 and 2 in the affirmative and in order to answer point No.3, proceed to pass following order.

: ORDER :

1. Suit is decreed with costs.
2. Plaintiff is hereby declared as monthly tenant in respect of the suit premises i.e. **Room No.102A**, D-3 & D-4, A-6, Shete Estate, Mumbai Marathi Granth Sangrahalay Marg, Dadar – East, Mumbai – 400 014.
3. Defendant is hereby directed to issue rent receipts in respect of the suit premises in the name of plaintiff.
4. Decree be drawn up accordingly.

(Dictated and pronounced in open Court)

Date : 29.04.2022

**(D.S. Dabhade)
Judge, C.R.No.17**

Dictated On : 29.04.2022
Typed On : 29.04.2022
Checked and signed on : 29.04.2022