

DECREE

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IN THE HON'BLE SMALL CAUSES COURT OF MUMBAI, AT MUMBAI

ST-3012/18

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

In the matter between

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-400014)
Contact: 9969612395,)
Email: shyam_sakpal@~~com~~yahoo.com)

....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)

...Defendant

U/S 7(15) MRC Act

THE PLAINTIFF ABOVE NAMED MOST RESPECTFULLY SUBMIT AS
UNDER :

1. The Plaintiff is an adult, Housewife & Social Worker by occupation and Indian inhabitant of Mumbai residing at the above address stated in the cause title above from past 28 years.
2. The Defendant is Indian inhabitant of Pune and owner of the Property Known as A-6 Shete Estate, Mumbai Marathi Granth Sangrahalay Marg, Dadar, Mumbai-400014, being entitle to receive rent from the Plaintiff and issue rent receipts for suit premises. It is submitted that, there was one person namely Mr. Dattatray Hari Kelkar who was permanently residing at the cause title address of Plaintiff. The said Mr. Dattatray Hari Kelkar died intestate leaving behind him his three sons namely 1. Mr. Sudhakar Dattatray Kelkar, 2. Mr. Ramesh Dattatray Kelakar, 3. Shyamsundar Dattatray Kelkar and four daughters namely 1. Mrs. Sharada Ganesh Kale, 2. Mrs. Nilima Prahakar Khare, 3. Mrs. Nila Hari



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Pethe, 4. 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.

3. The Plaintiff is concerned with Late Mr. Shyamsundar Dattatray Kelkar, as she is widow of late Mr. Shyamsundar Kelkar and there is sad demise of late Mr. Shyamsundar Dattatray Kelkar on dated 31.12.2002. Hereto annex the Copy of his Death Certificate of late Mr. Shyamsundar Kelkar and mark it as **"Exhibit-A"**. Before and even after the sad demise of Mr. Shyamsundar Dattatray Kelkar, the Plaintiff is residing on the same address from last 28 years till to date.
4. It is submitted that, after sad demise of Late Mr. Dattatray Hari Kelkar, the rest of the Legal Heirs except his daughters, are residing in joint family at address mentioned above in clause title of Plaintiff. Late Mr. Sudhakar Dattatray Kelkar elder son, middle son Late Mr. Ramesh Dattatray Kelkar who was not married and younger son Late Mr. Shyamsundar Dattatray Kelkar of Late Dattatray Kelkar were residing in the same premises. Whereas Mr. Ramesh Dattatray Kelkar have died intestate in Year 28.12.1999. Hereto annex the Death Certificate of Late Mr. Dattatray Hari Kelkar, Late Mr. Ramesh Dattatray Kelkar and mark it as **"Exhibit-B Colly"**.
5. The Plaintiff states that, she had lawfully married to Mr. Shyamsundar Dattatray Kelkar on dated 27th April, 1990 as per Hindu customs and rituals. She is widow of her late husband Mr. Shyamsunder Dattatray Kelkar, who died intestate on dated 31.12.2002. The Plaintiff hereto annex the copy of marriage certificate of Plaintiff and her husband late Mr. Shyamsundar Kelkar and mark it as **"Exhibit-C"**. The Plaintiff had continued to reside in the same premises even after death of her husband. Hereto annex the copies of residence proofs of the Plaintiff such as Aadhar Card, PAN Card, Election Card, Telephone Bills etc. for the reference of this Hon'ble Court and mark it as **"Exhibit-D Colly"**.
6. The Plaintiff states that, the suit property is having two entrance doors which is named as D-3 & D-4. Ou of which D-3 is still in the name of Late Mr. Dattatray Hari Kelkar, who was father-in-law of the Plaintiff. The Plaintiff's husband was raised in Joint Family and thus the original rent receipts for D-3 entrance door of the said property were in the name of late Mr. Dattatray Hari Kelkar and D-4 entrance door rent receipt was in the



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name of Late Mr. S. D. Kelkar i.e. husband of Plaintiff. It is pertinent to note here that, though there are two entrance door names to the suit property but factually there is only one door to the suit property. The Plaintiff further states that, after sad demise of Late Laxmibai Dattatray Kelkar i.e. mother-in-law of Plaintiff, sad demise of Late Mr. Ramesh Dattatray Kelkar i.e. brother-in-law of Plaintiff and sad demise of her husband Late Mr. Shyamsundar Kelkar, the Plaintiff and Late Mr. Sudhakar Kelkar were only people residing in the suit premises. As per knowledge of the Plaintiff, late Mr. Sudhakar Kelkar did not approached the Defendant or her predecessors to transfer the Rent Receipt and tenancy title of the suit property in his name or in Plaintiff's name. Hereto annex the copies of Rent receipts which are in the name of Late Mr. Dattatray Hari Kelkar & Late Mr. S. D. Kelkar and mark it as **"Exhibit-E Colly"**.

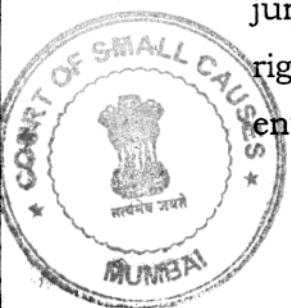
7. The Plaintiff states that, the Plaintiff is paying the rent for the entire suit premises including service charges. The Plaintiff has paid an advance rent upto 31.03.2019. It is pertinent to note here that, the Defendant is adamantly not accepting the request of the Plaintiff to transfer the Rent Receipt and tenancy title in her name, being the legal heir of Late Mr. Shyamsundar Kelkar. The Plaintiff and her husband has made various complaints to the Defendant in the past with respect to unhealthy and nuisanceful neighbourhood. Further 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 has adversely effected on the relations of the Plaintiff and Defendant Landlord. Hereto annex the copies of complaints and correspondences placed between the Plaintiff and Defendant with respect to unhygienic environment and offensive neighbourhood and mark it as **"Exhibit-F Colly"**.

8. The Plaintiff states that, the Plaintiff is taking good care of the suit premises and had never break down any lawful restrictions put by the Defendant. The Plaintiff has even obliged to the conditions put by the regional housing authorities such as MHADA. Hereto annex the Copies of correspondences encountered between Plaintiff and MHADA authorities and mark it as **"Exhibit-G Colly"**. It is pertinent to note here that, the Plaintiff had tried every possible and legal remedy to sustain her tenancy right in the said suit property. Whereas, the Defendant is less active in supporting the Plaintiff in her regular struggle for survival as tenant in the said suit property.



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9. The Plaintiff states that, she is a widow and not having any children behind her demised husband Late Mr. Shyamsundar Kelkar. The Plaintiff is having only protection of suit premises as shelter and she cannot go anywhere else if she gets evicted from the suit premises without following due process of law. Therefore, it is just and necessary that the rent receipts and tenancy title of the suit premises shall be transferred in her name, which will be concrete foundation as being tenant in the suit premises and no authority can remove her from the suit premises by their whims and fancies.
10. The Plaintiff states that, in the above circumstances she had finally approached the Defendant for transferring the tenancy title in her name and thereby transferring rent receipts in her name. For such purpose and requirement, the Plaintiff is and was ready to pay requisite legal charges to the Defendant. The Plaintiff therefore had finally sent a legal notice to the Defendant through her Advocate in the month of 06.08.2018 for the same purpose, which was returned back to her as unclaimed. Hereto annex the copy of unclaimed Notices and Postal Receipts and mark it as **"Exhibit-H Colly"**.
11. The Plaintiff is rightful successor of a lawful tenant in respect of the suit premises and is always prompt and regular in the payment of the monthly rent and relevant charges even after sad demise of late Mr. Shyamsundar Kelkar and Late Mr. Dattatray Kelkar. The Plaintiff has not committed any act or deed contrary to the provisions of Maharashtra Rent Control Act, 1999 nor has committed any breach of terms & conditions of tenancy. The Plaintiff is a lawful tenant entitled for protection under the Maharashtra Rent Control Act, 1999. Therefore the Plaintiff state that her claim for tenancy right in respect of the suit premises is legal, valid, subsisting and in force and it cannot be terminated at the whims and will of the Defendant's. Therefore, it is just and necessary to transfer the tenancy title and rent receipts in her name after demise of her late husband Mr. Shyamsundar Kelkar and her father-in-law Mr. Dattatray Hari Kelkar.
12. The Plaintiff is permanent residence of Dadar, which falls under territorial jurisdiction of this court. The nature of the suit is declaration of tenancy right. Therefore, this Hon'ble Court has well jurisdiction to try and entertain this suit.
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13. The Plaintiff is entitled to protection under the Maharashtra Rent Control Act, 1999.

14. In the aforesaid circumstances, the Plaintiff seeks a declaration of this Hon'ble Court that the Plaintiff is a legal tenant in respect of the Suit Premises and entitled for protection under the Maharashtra Rent Control Act, 1999. The Plaintiff seeks relief in terms of transfer of rent receipts in the name of her i.e. widow of late Mr. Shyamsundar Kelkar and transfer of tenancy rights from her deceased husband to her. The Plaintiff is ready to undertake to pay necessary incidental charges, fees and taxes as per law for such transfer of title of rent receipts of the suit premises.

15. The relief claimed, is for declaration of the Plaintiff tenancy rights and other reliefs are purely incidental in nature. The Plaintiff has accordingly valued the suit at Rs. 1,000/- as reliefs claimed herein are incapable of monetary valuation and the Plaintiff have paid the Court fee accordingly.

16. The present suit premise is not covered under the Maharashtra Slum Clearance Act.

17. The Plaintiff had sent Notice Sent 06.08.2018 to Defendant Landlord for legally transferring the rent receipts in the name of the Plaintiff, which was unclaimed returned to the Plaintiff on 14.08.2018. Thereafter the Plaintiff had tried to contact the Defendant on various occasions for same bonafide reason, but the Plaintiff does not receive any response from the Defendant. The cause of action has arisen on dated April, 2018 & August, 2018 and still continues in nature. Therefore the suit is not barred by the statute of limitation.

18. The Plaintiff will refer to and rely upon the list of documents which is annexed hereto and on such other documents that shall be filed with the leave of this Hon'ble Court, during the pendency of this suit.

19. The Plaintiff craves leave to amend the suit as and when felt necessary to do so in the interest of justice.

20. The Plaintiff have not filed any other suit or pending any other litigation in any other Court of Law against the Defendant for the same relief.

21. It is therefore prayed that, this Hon'ble Court may be pleased to :

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- a) That the Hon'ble Court be pleased to pass an order and directions to the Defendant to transfer the rent receipt and tenancy title in the name of the Plaintiff for suit property known as :

"Room No. 102A, D-3 & D-4, A-6, Shete Estate, Mumbai Marathi Granth Sanghalay Marg, Dadar-East, Mumbai-400014"

- b) that pending hearing and final disposal of the suit, the Defendants, her agents, servants, representatives, assignees, any third party claiming through or under the Defendants be restrained by an Order of injunction of this Hon'ble Court from disposal off or sale or transfer of the suit property;
- c) for interim and ad-interim reliefs in terms of prayer clause (a) or (b) above;
- d) for costs; and
- e) for such and further orders as this Hon'ble Court may deem fit and proper.


Advocate for Plaintiff


Mrs. Manasi Shyamsundar Kelkar
Plaintiff

Date: 01.11.2018

Place: Mumbai



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VERIFICATION

I, Mrs. Manasi Shyamsundar Kelkar, Age: 60 Years, Occupation: Housewife, residing at : 102/A Madhavwadi, 3rd Floor, Room No. 03, Mumbai Marathi Granth Sangrahalay Marg, Dadar, Mumbai-400014, the Plaintiff above named, do hereby state on solemn affirmation that whatever stated in paras No. 1 to 10 above is based on my personal knowledge and whatever states in are no. 11 to 20 is based on legal knowledge which I believe the same to be true and correct.

Solemnly affirmed and signed at Mumbai)

On this 01st day of November, 2018)

ms kelkar

Plaintiff

Explained and interpreted by

B. S. Patel
Advocate for the Plaintiff



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Solemnly affirmed before me
Mrs. Manasi S. Kelkar Age 60

Who is identified before me by

A-5180130325h5

Whom I personally know

This 1st day of Nov. 2018



Mhatre
1-11-2018
Superintendent
Court of Small Causes
Mumbai-400 002.



CNR No.MHSCA20029112018

**IN THE COURT OF SMALL CAUSES AT MUMBAI
DECREE**

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

Mrs. Manasi Shyamsundar Kelkar)Plaintiff.

V/s

Mrs. Swati Vijayanand Shete)Defendant.

Coram: Shri D. S. Dabhade,

Judge, C.R.No.17,

Date : 29/04/2022

Claim : Rs.2,000/-

This suit came on board on this 29th April, 2022, for hearing, before Judge Shri D. S. Dabhade, presiding in Court Room No.17 in the presence of Advocate Ghanshyam B. Sakpal, Advocate for the Plaintiff. Defendant exparte.

It is ordered that

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.



Sd/-
(D. S. Dabhade)
Judge
Court Room No.17
29/04/2022

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

BILL OF COST

SR NO	PARTICULARS	PLAINTIFF		DEFENDANT	
		Rs.	Ps	Rs.	Ps
1	Stamp on Complaint	400	00	00	00
2	Stamp on V.P.	10	00	00	00
3	Stamp on Application/Exhs	40	00	00	00
4	Pleader's Fee	300	00	00	00
5	Commissioner's Fee	00	00	00	00
6	Subsistence of Witness	00	00	00	00
7	Service of Process	4	85	00	00
	TOTAL	754	85	00	00

Given under my hand and seal of the Court

This day of 29th April, 2022.

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

Judicial Clerk: U. U. Parab

U. U. Parab
06/05/22

Prepared By: Nishant S. Tayade, Clerk-Typist.

Nishant S. Tayade

Sign of Plaintiffs Adv.

Sign of Defendants Adv.