



srp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 308 OF 2012.

Shree Rameshwar Consumers
Co-op. Society & Anr. ..Petitioners.
Versus
Ashok B.Arondekar and Another. ..Respondents.

Mr. P.S.Dani with Mr. Abhishek Deshmukh i/b S.A.Sawant for the
petitioners.
Mr. S.B.Prabhavalkar for the respondents.

Coram : RANJIT MORE, J.
Date : **June 29, 2012.**

P. C. :

1. Heard Mr. Dani, learned counsel for the petitioners
and Mr. Prabhawalkar, learned counsel for the respondents.
The revision arises out of the decree passed by the lower
appellate court against the petitioner and in favour of the
respondent on the ground of sub-letting. Petitioner no.1 is the
tenant and petitioner no.2 is alleged to be a sub-tenant
inducted by petitioner no.1. The respondent alleged the
transfer of possession by petitioner no.1 in favour of petitioner



no.2. The petitioner on the contrary contended that petitioner no.2 is occupying a part of the suit premises and carrying on business of electrical goods repairs and in consideration he is acting as a care-taker of the shop of 1st petitioner and also assisting the manager in smooth running of the said shop. Thus, the question which deserves consideration is whether petitioner no.1 has unlawfully sub-let the premises to petitioner no.2. In order to obtain a decree of eviction on the ground of sub-letting, the respondents must establish parting with possession of the suit premises or part of it, by petitioner no.1 in favour of petitioner no.2 with exclusive right of possession and such parting with possession has been done without respondent's consent and in lieu of compensation or rent. *Prima facie*, on perusal of the impugned judgment and decree I find that no finding is recorded that the exclusive possession is parted with by petitioner no.1 in favour of petitioner no.2. The trial Court dismissed the suit and as stated above the decree is passed by the appellate Court.

2. Taking into consideration facts and circumstances of the case, in my view, case for admission is made out.



Therefore, **Rule**. In view of the fact that respondents are senior citizens, hearing of the Civil Revision Application is expedited. The Registry is directed to place the CRA on final hearing board in the 2nd week of January 2013.

3. Rule on interim relief returnable on 10th of August 2012. In the meanwhile, there shall be interim relief in terms of prayer clause (c).

(RANJIT MORE, J.)