



2. Mr.Kanade, learned Counsel for the Revision Applicants, would submit that the Revision Application is against two concurrent orders, of the trial Court as well as the Appellate Court under Section 16(1)(n) of the Maharashtra Rent Control Act, 1999. Learned Counsel would submit that the said Section entitles the landlord to file a suit for eviction if the premises have not been used by the tenant without reasonable cause for the purpose for which the premises was let for a continuous period of six months immediately preceding the date of the suit. Learned Counsel would submit that the suit has been filed on 26<sup>th</sup> April 2007 and the compass period viz. the six months period preceding the date of filing of the suit would be 27<sup>th</sup> October 2006 to 24<sup>th</sup> April 2007. Learned Counsel would submit that as per settled law, it is for the tenant to prove that the non-user of the suit premises during the compass period was with reasonable cause. Learned Counsel submits that it is an admitted position that during the compass period, the original tenant had been hospitalized on 17<sup>th</sup> December 2006 till 13<sup>th</sup> January 2007 as he had suffered a paralytic stroke, and therefore, he had to be bedridden. Learned Counsel would submit that a perusal of the impugned order clearly indicates that the Discharge Card of Hinduja Hospital recording the above hospitalization is not in dispute. He would submit that clearly, therefore, the original tenant was not

“not in use” of the suit premises for a continuous period of six months preceding the date of the suit, and therefore, the two orders passed by the trial Court and the Appellate Court need to go.

3. On the other hand, Ms.Ms.Sunanda Kumbhat, learned Counsel for the Respondents-landlord, vehemently opposes the admission of this Revision Application on the ground that the decree, pursuant to the two orders, has already been executed and not only that, pursuant to the execution of the decree, the suit premises has already been gifted by the landlord to his daughter, who is in possession of the suit premises. Learned Counsel would submit that, what also needs to be seen is that, even prior to the period of hospitalization, during the compass period, the original tenant was not occupying the suit premises, which has been taken into consideration by both the trial Court as well as the Appellate Court. Learned Counsel draws the attention of this Court to paragraph 33 of the order of the Appellate Court and submits that the original tenant had no intention to occupy the suit premises for his residence purpose right from the year 2001 and he abandoned the suit premises from the year 2005, and therefore, the subsequent ailments and medical treatment should not come in the way of the Respondents getting the eviction decree.

4. I have heard the learned Counsel at some length. It is not in dispute that during the compass period of 27<sup>th</sup> October 2006 to 26<sup>th</sup> April 2007, for the period from 17<sup>th</sup> December 2006 to 13<sup>th</sup> January 2007 the original tenant was hospitalized. Section 16(1)(n) of the Maharashtra Rent Control Act, 1999, clearly requires that the premises should have not been used without reasonable cause for the purpose for which it was let, for a continuous period of six months, immediately preceding the date of the suit. Learned Counsel for the Revision Applicants has argued that the hospitalization of the original tenant during this period is a reasonable cause for which the suit premises could not be occupied. I am, *prima facie*, of the view that, this could be a reasonable cause for the original tenant, not to occupy the suit premises. The matter will require further consideration, and therefore, the following order :

**ORDER**

- i) Admit.
- ii) Registry is directed to call for Record and Proceedings within a period of four weeks.
- iii) Let private paper book be filed within a period of four weeks thereafter, with a copy to the other side.
- iv) List on **4<sup>th</sup> October 2023** for final hearing, subject to removal of all office objections.

**(ABHAY AHUJA, J.)**