

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL REVISION APPLICATION NO.966 of 2012**

Chandraprasad Ghanshyam Shukla : Applicant  
versus  
Harish Shambhulal Hariani & Anr. : Respondents

Mr.V. K. Gupta for the Applicant  
Mr. J. G. Reddy for the Respondent No.1

**CORAM:- R. G. KETKAR, J  
DATED :- 3<sup>rd</sup> SEPTEMBER, 2013.**

**PC.**

1 Heard Mr. V. K. Gupta, Learned Counsel for the Petitioner and Mr. J. G. Reddy, Learned Counsel for the Respondent, at length.

2 By this Application under Section 115 of the Civil Procedure Code 1908 the Applicants have challenged the Judgment and Decree dated 16-1-2004 passed by the Learned Trial Court as also the Judgment and Decree dated 8-10-2010 passed by the Learned Appellate Court. The Courts below have decreed the Suit instituted by the Respondent No.1 and directed the Applicants herein to hand over possession of the suit premises admeasuirng 0.78 sq.mtrs., including plant and box.

3 Mr. Gupta raised two fold contentions namely if it is held that the suit premsies is not less than a room, having regard to Section 15A of the Bombay Rent Hotel and Lodging House Rates Control Act 1947, (in short

“Act”) he is a protected tenant. Assuming that the suit premises is not a room, in that event it will not also be a premises within the meaning of Section 5(8) of the Act. In such eventuality the provisions of the Act will not be applicable.

4 On the other hand Mr. Reddy supported the impugned orders and submitted that the case of the Respondent No.1-Plaintiff is that the original Defendant No.1 had unlawfully sublet the suit premises to the Applicant herein. The Applicant does not get protection of Section 15A of the Act. He further submitted that the suit premises is not a premises as contemplated under Section 5(8) of the Act.

5 In view of the submissions, in my opinion, a fairly arguable case is made out as regards applicability of the provisions of the Act. Hence Rule. Mr. Reddy waives service on behalf of the Respondent No.1. Call for R & P of the case. There shall be interim relief in terms of prayer clause (b) on usual terms. The hearing of the Civil Revision Application is expedited.

**(R. G. KETKAR, J)**