

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 464 OF 2025

1. Ajit Singh Wala (Deleted)

1.1. Mr. Popatbhai A. Wala

(deleted since deceased)

1.1.1 Mahendra Popatbhai Wala

..... APPLICANT

: **VERSUS** :

Shri Tilak Khetshi Shah, (deleted since deceased)

1(a) Smt. Shobhana Tilak Shah & Ors.

....RESPONDENTS

Mr. Vaibhav Sugdare with *Mr. Gaurav Sawant i/b. Ms. Pooja Thakkar, for the Applicants.*

Mr. Shravan Vyas with *Mr. Vivek Vyas, for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

JUDGMENT RESD. ON : 16 April 2026

JUDGMENT PRON. ON : 4 May 2026.

JUDGMENT :

1) The Applicant is an Obstructionist, who has obstructed execution of decree passed in T.E. & R. Suit No. 263/284 of 2002. The Trial Court has made the Obstructionist Notice absolute by judgment and order dated 30 November 2024 directing the Applicant/Obstructionist to deliver possession of the suit premises to the Plaintiff. The order passed by the Trial Court is upheld by the Appellate Bench of the Small Causes

Court by dismissing Execution Appeal No. 21 of 2025. The Applicant has accordingly filed the present Revision Application challenging the decisions of the Trial and Appellate Courts.

2) Plaintiffs had instituted T.E. & R. Suit No.263/284 of 2002 for recovery of possession of land admeasuring 18,000 sq.ft forming part of Cadastral Survey No. 6/172 of Parel Sewree Division, Tokershi Jivraj Estate situated at Tokershi Jivraj Road and Acharya Donde Marg, Sewree, Mumbai-400 015 (**suit plot**). By judgment and decree dated 4 April 2005, the Trial Court decreed the Suit and directed the Defendants to handover possession of the suit plot to the Plaintiffs. The decree was put in execution by filing Execution Application No. 259 of 2017. After the warrant of possession was issued and the bailiff visited the premises, he noticed several galas/structures on the suit plot occupied by different individuals. The Applicant/Obstructionist was found in possession of Gala Nos.8 and 9. The Obstructionist refused to vacate the possession of the structures in his possession and a report to that effect was submitted by the Bailiff.

3) In pursuance of Bailiff's Report, Plaintiff instituted Obstruction Notice No. 233 of 2018 for removal of obstructions. The notice was replied by the Obstructionists/Applicants claiming independent rights in respect of the structures. Based on the pleadings, issues were framed by the Trial Court. Parties led evidence in support of their respective claims.

4) After considering the pleadings, oral and documentary evidence, the Trial Court proceed to make the Obstructionist Notice absolute vide judgment and order dated 30 November 2024. The Trial Court directed the Obstructionist to vacate the possession of the suit premises. The Appeal preferred by the Applicant/Obstructionist has been dismissed by the Appellate Bench of the Small Causes Court vide judgment and order dated 10 June 2025. Accordingly, the Applicant has filed the present Revision Application.

5) Mr. Sugdare, the learned counsel appearing for the Revision Applicant has submitted that the Trial and the Appellate Courts have grossly erred in not appreciating the position that the entire plot of land is declared as Slum vide Notification dated 16 February 1979 issued by the Dy. Collector and Competent Authority. That CTS No.6/172, of which the Suit plot forms a part, is undoubtedly declared as slum. That Appeal preferred by the Plaintiffs against the Notification dated 16 February 1979 has been dismissed by the Tribunal constituted under the provisions of Maharashtra Slum Areas (Improvement, Clearance Redevelopment) Act, 1971 (**Slum Act**) vide judgment and order dated 8 July 1981. He submits that the Plaintiff suppressed the factum of land being declared as slum. That Plaintiff did not lead any evidence to prove that the premises in occupation of the Applicants do not form part of slum declaration. That once the Applicant produced Notification showing slum declaration in respect of CTS No.6/172, the onus gets shifted onto the Plaintiff/deed holder to prove that the premises in occupation of Obstructionists fell within the excluded area in the Notification. That there is specific bar under Section 22 of the Slum Act from entertaining any suit for eviction

without the permission of the Competent Authority. That the decree therefore in nullity and cannot be executed.

6) Mr. Sugdare further submits that the decree has been secured behind the back of the Obstructionist despite Plaintiffs having full knowledge of their presence in the constructed structures. That non-impleadment of Obstructionist has resulted in passing of a faulty decree on account of gross suppression indulged into by the Plaintiffs.

7) Mr. Sugdare further submits that the execution proceedings were otherwise time barred. That the Execution Application was filed beyond the period of 12 years and the same ought to have been dismissed by the Trial and the Appellate Courts.

8) Mr. Sugdare further submits that the Suit itself was filed against a dead person and therefore the decree passed therein is a nullity. Mr. Sugdare relies on judgment of the Apex Court in the case of **Laxmi Ram Pawar Versus. Sitabai Balu Dhotre & Anr.**¹ in support of his contention that Section 22 of the Slum Act acts as a complete bar to amenability of the suit without the written sanction of the Competent Authority. He also relies on judgment of the Apex Court in **S.P. Chengalvaraya Naidu (Dead) by LRs. Versus. Jagannath (Dead) by LRs and Ors.**² in support of his contention that fraud and gross suppression has resulted in a decree in nullity and it is unenforceable. On above broad

1 2011 1 SCC 356

2 (1994) 1 SCC 1

submissions, Mr.Sugdare prays for setting aside the orders passed by the Trial and the Appellate Courts.

9) Mr. Vyas the learned counsel appearing for the Respondents/decreed holders opposes the Revision Application. He submits that the Suit was filed for recovery of possession of open piece of land and that therefore decree is passed in respect of the land and not in respect of the structures. That Applicants in R.A.D. Suit No. 6956 of 1974 specifically rejected the claim in respect of open piece of land. That the said suit was instituted against the judgment debtor and an irrelevant entity being Nav Bharat Lime and Motor Mills Co. and declaration of tenancy in respect of the structure would not bind the decree holders. He submits that the very fact that the Applicant sought declaration in respect of the structure against the judgment debtor makes it abundantly clear that he claimed rights through the judgment debtor and did not have any independent right. He submits that concurrent findings are recorded by the Trial and the Appellate Courts about absence of independent rights which do not warrant any interference in exercise of revisionary jurisdiction of this Court.

10) So far as the point of slum declaration is concerned, he submits that the burden was on the Applicant/Obstructionist to prove that the structures are located on portion of land which is declared as slum. That the entire land bearing CTS No.6/172 is not declared as slum. That in the Written Statement, no issue of land being declared as slum was raised. That therefore Obstructionists cannot have any locus to raise

the said issue. On above broad submissions, Mr. Vyas would pray for dismissal of the Revision Application.

11) Rival contentions raised on behalf of the parties, now fall for my consideration.

12) The challenge to the concurrent findings recorded by the Trial and Appellate Courts is raised by the Applicant mainly on the ground that the decree cannot be executed in the light of provisions of Section 22 of the Slum Act without seeking prior permission of the Competent Authority. Applicant relied on Notification dated 16 February 1979 issued by the Deputy Collector and Competent Authority under the Slum Act in support of their contention that CTS No. 6/172 has been declared as Slum area. However, perusal of the Schedule to the said Notification would indicate that only portion of land admeasuring 3468.26 sq. mtrs. is declared as Slum area and the entire land bearing C.T.S No. 6/172 is not declared as slum. More importantly, Notification excludes certain portions in CTS No. 6/172 which is clear from the following caveat in Schedule to the Notification- "*excluding permanent building known as 'Old Post Chawl', 'Timber Depot', 'Garage'*".

13) It appears that there was no occasion for the Trial Court to conduct enquiry into suit plot being declared as slum. A defense was sought to be raised for the first time in reply to Obstructionist Notice. Since the Applicant took the said defense, the burden was on him to prove that the land on which structures are located is declared as slum. In view of the fact that only certain portion of land in CTS No.6/172 is declared as

slum, the burden was on the Applicant to prove that the structures are located on the land which is declared as slum by the Notification. However, the Applicant have thoroughly failed to prove the same by leading cogent evidence. The Applicant ought to have undertaken the exercise of conducting measurements for proving that their structures are located on land which is declared as slum vide Notification dated 16 February 1979.

14) Reliance by the Applicant on judgment of the Apex Court in **Laxmi Ram Pawar** (supra) is inapposite. No doubt permission of a Competent Authority under Section 22 is required even for execution of the decree. However, since the Applicant has failed to prove that the structures are located on the land, which is declared as slum, the question of seeking prior permission of the Competent Authority for execution of decree does not arise. The allegation of suppression sought to be raised by the Applicant also does not merit consideration as he has failed to prove that the portion of land on which the structures are situated has been declared as slum. Hence reliance on judgment of the Apex Court in **S.P. Chengalvaraya Naidu** (supra) is inapposite. The Appellate Court has recorded an emphatic finding that the Notification explicitly excluded certain portions and that the suit premises are situated within the excluded portion.

15) Though full-fledged enquiry into existence of an independent right of Obstructionist may be warranted in given circumstances under Rule 101 of Order 21 of the Code of Civil Procedure, 1908 (**Code**), under the guise of conduct of such enquiry, the Executing Court cannot go

behind the decree. The Obstructionist cannot seek to establish as to how the Defendant in the Suit could have raised a particular defence and prevented the decree from being passed. All that an obstructionist can do under Rules 97 and 101 of Order 21 of the Code is to establish his independent right, *dehorse* the judgment debtor, to occupy the premises. This is the limited scope of enquiry in the obstructionist proceedings. In the present case, however, Applicant expected the Executing Court to go beyond the decree and questioned its very validity. It must be borne in mind that the obstruction is by an inductee of original tenant. Therefore, the limited enquiry which needs to be conducted in such circumstances is whether such inductee can have independent right to occupy the structure even if the tenant is evicted from the premises/land. Under the garb of obstructing the decree, the obstructionist cannot be permitted to question the very validity of the decree. The objection of land being declared slum therefore needs to be considered and decided keeping in mind the above broad principles.

16) In my view, the Trial and Appellate Courts have conducted sufficient enquiry into the claim of Applicant in respect of the Slum Act. The findings recorded by the Courts do not suffer from the vice of perversity. In that view of the matter, the defence of land being declared as slum is clearly misconceived and taken for the sole purpose of somehow protecting possession of the premises even after two Courts concurrently ruling against the Applicant.

17) Coming to the issue of establishment of independent right, the Applicant has failed to prove the same. The suit was filed for recovery

of possession of land in respect of which lease was granted. Applicant claimed possession through induction made by the original tenant. In such circumstances, provisions of Section 15A of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 does not have any application. In the present case, induction is not by the landlord but the same is made by the tenant. This Court has repeatedly taken a view that if lease is granted in respect of open land and if tenant constructs structures and inducts third parties into that structures, all the occupiers of the structure must walk out of their respective structures once decree for eviction from land is made. In **Darryl D'Monte (deleted since deceased) and Ors. Versus. Vadilal Kunverji Gada & Ors.**³ this Court has held in paragraphs 62 to 66 as under :

62. However, the issue in this regard appears to be squarely covered by the judgment of this Court in ***Sanjay Ramchandra Parab*** (supra) in which, the obstructionists had challenged orders passed by the Small Causes Court and its Appellate Bench directing their removal from structures in execution proceedings taken out by decree holders, who had secured decree for eviction against the lessee of the land. The Plaintiff had granted lease in respect of the vacant land for a period of 25 years in favour of the lessee who was permitted to put up buildings, structures or sheds on the demised land. The lessee was also entitled to assign the buildings and structures alongwith leasehold interest in the land. The Plaintiffs filed R.A.E. & R. Suit before the Small Causes Court for recovery of possession of land alongwith shed located thereon. The R.A.E. & R. suit was dismissed but the Appellate Court allowed the Appeal and passed eviction decree for possession of the suit premises. When decree was put in execution, possession warrant was obstructed by 56 different persons claiming possession in respect of the various structures constructed on the demised land. Plaintiffs therefore took out Obstructionist Notice, which was resisted by the 56 obstructionists claiming independent right in respect of the structures. The issue before this Court was whether the obstructionist had any independent right to possess the structures erected by the original lessee in view of permission granted to them under the clauses of lease. This Court noted the ratio of the judgment in ***Ramkrishna Girishchandra Dode and Ors.***

3 CRA 417 OF 2022 decided on 6 April 2026

Versus. Anand Govind Kelkar and another⁴ which in turn had relied upon judgment in ***Goregaon Malayalee Samaj*** (supra) and This Court held that if the tenants of the demised land constructed structures and inducted third parties, their status *vis-a-vis* the land is necessarily that of licensees and that they do not enjoy protection of provisions of Section 15A of the Bombay Rent Act. This Court also referred to the judgment of the Apex Court in ***Jamnadas Dharamdas*** (supra) in which it was held that the landlord is entitled to claim relief of possession of land without recognizing rights of obstructionists who were inducted by the tenant in structures constructed by him. This Court held in ***Sanjay Ramchandra Parab*** in paras-16 to 19 as under :

16) The facts of the present case appear to be somewhat similar to the facts involved in ***Ramkrishna Girishchandra Dode*** in which the Single Judge of this Court (A.V. Sawant, J.) has noted the plight of the landlord/deed holder trying to execute the decree in petitions filed by the obstructionists. The suit premises therein comprised of open piece of land in respect of which, a registered lease-deed was executed in favour of the lessee for a period of 50 years. The lease was terminated by issuance of notice and suit was instituted for recovery of possession. One of the grounds for eviction was carrying out construction on the plot and induction of outsiders without prior consent of the landlords. The suit was decreed on 4 October 1978 directing the Defendants/Tenants to vacate the suit property. When the decree was put in execution and warrant of possession was issued, the bailiff returned the warrant with a report that execution of decree was obstructed by 80 obstructionists claiming possession in respect of various constructed portions in the suit property. The decree holders took out obstructionist notice which came to be made absolute and the order of the Executing Court was upheld by the Appellate Bench. In the above facts, this Court considered the right of occupants of structures constructed on the leased land in respect of which decree of eviction was passed against the original lessee. This Court referred to judgment of Division Bench in ***S.R. Shetty vs. Phirozeshah Nusserwanji Colabawala*** decided on 21 November 1962 in which the question of right of obstructionists in respect of the structures put up by the tenants of the plot was considered. This Court held in para-17 of the judgment as under:

17. As far back as on 21st November, 1962, a Division Bench of this Court in C.R.Equity Text AA. No. 1511 of 1960 of S.R. Shetty vs. Phirozeshah Nusserwanji Colabawala and another was considering the question of the right of the obstructionists in respect of the structures put up by the tenant of the plot

belonging to landlord owner of the plot. Whatever right the obstructionists may have against the owner of the structures, it was held that it was almost impossible to accept the suggestion that after the structure is built and the sub-tenant has been inducted by the tenant, such a sub-tenant also becomes the subtenant of the land belonging to the landlord. The sub-tenant of the structure erected by the tenant had only right to occupy the said structure without any right to occupy the land on which the structure was erected. This was all the more so in a case where a multi-storeyed building is erected on a plot of land where it would be difficult to decide as to which subtenant of which structure had right to occupy the particular portion of the plot of land in dispute which was leased by the landlord to the tenant who had erected the super structure may be a multi storeyed structure. This view expressed by the Division Bench in S.R. Shetty vs. Phirozeshah Nusserwanji Colabawala, was considered in a series of judgments rendered by this Court while dealing with the right of the obstructionists in the proceedings under the Rent Act.

17) In *Ramkrishna Girishchandra Dode*, this Court also relied upon judgment in *Goregaon Malayalee Samaj vs. M/s. Popatlal Prabhudas and Sons* wherein again the same issue was decided and this Court held in para-21 as under:

21. In *Goregaon Malayalee Samaj vs. M/s. Popatlal Prabhudas and Sons*, 1987 Mah.Rent Control Journal 701, A.C. Agarwal, J. had occasion to consider the same question. Originally the tenancy was in respect of the land. The tenant of the land constructed structures thereon and inducted third parties. The question arose whether such a third party could become subtenant of the landlord in respect of the land beneath the structure and claim protection of the provisions of section 15A of the Rent Act. It was held that persons so inducted on the structures would be the tenants in respect of the super structure on the land only. Their status vis-a-vis the land is necessarily that of a licensee only and not any higher status. Where a decree is sought to be executed in respect of land which was subject matter of the original lease, the status of the tenants of the structure on the land was nothing more than that of mere licensees. **The right of the occupants of the structures on the land was nothing more than that of a mere licensee. Such licence must necessarily come to an end when the landlord obtains a decree for eviction of his tenant and the occupants have got to be evicted from the land which could not be done unless they are also evicted from the structures which stand on the land.** All subsidiary interests that would have been created by the original lessee of the land pursuant to the lease

deed must necessarily come to an end unless the occupant was otherwise protected by the provisions of the Rent Act. **On the question as to whether such an occupant would be protected by the provisions of section 15A of the Rent Act, this Court gave the answer in the negative.**

18) This Court further held in para-23 and 24 as under :

23. I must now make a reference to the judgment of the Apex Court which sets at rest the entire controversy and to which a reference has been made in some of the decisions of this Court referred to above. In *Jamnadas Dharamdas vs. Dr. J. Josheph*, AIR 1980 SC 1605, the Apex Court considered identical situation where the obstructionists were claiming protection after the tenant had suffered a decree for eviction under section 12(3) of the Rent Act. **On consideration of some of its earlier decisions, Apex Court held in para 18 of the judgment at page 1610 that the landlord was entitled to claim relief of possession of his land and in effect the decree for possession of the land would mean that the land should be delivered to him without structures.** The tenant had committed defaults in payment of rent. Reference was made by the Apex Court to the decision of this Court in *Ramchandra Raghunath Shirgaonkar vs. Vishnu Balaji Hindalekar*, AIR 1920 Bom. 87 where it was held that ordinary rule of law is that **tenant must give up vacant possession of the land demised at the end of the term and that if he builds on the land of the tenancy, he builds at his own risks. At the end of the term, he can take away his building but if he leaves it there it becomes the landlord's property.** A reference was also made to another decision on this Court in *Khimjee Thakersee vs. Pioneer Fibre Co. Ltd.*, AIR 1941 Bom. 337 where it was held that on determination of the lease the lessees were required to deliver over possession of the demised premises to the lessors and the lessees were entitled to remove the structures which they might have erected during the continuance of the tenancy. In para 21, the Apex Court concluded that the plaintiff was entitled to ask for relief as to the possession of the land and he was also entitled to ask for demolition of the structures and for grant of vacant possession of the plots.

24. In the light of the above legal position, I will consider the contentions raised by the petitioners. The first contention is that, in the facts of this case, since the lessee of the plot Kelkar was permitted to put up or erect structures, the licensees of the structures inducted by the lessee Kelkar were also entitled to become the tenants of the land underneath the structures. Reliance was placed on the observations of a learned Single Judge

Bhasme, J. in *Mangharam Chubarmal vs. B.C. Patel*, 1971 Mh.L.J. 369=73 BLR 140 where it was held that in a suit against the tenant, if other persons are joined on the allegation that they are sub-tenants and if eviction is sought only on the grounds which are personal to the tenant (sections 13(1)(a), (b), (c), (d) and (e) of the Rent Act) then decree in ejectment against him will result in conferring the direct tenancy rights on the lawful sub tenant. It was further held that if sub-tenants are not impleaded in such a suit, then the landlord, after obtaining the decree against the tenant, will have to file a fresh suit against the subtenants who had by then become his direct tenant by virtue of section 14 of the Rent Act. This view expressed by Bhasme, J., need not detain me any longer since it is contrary to the earlier Division Bench decision of this Court in *S.R. Shetty's case* (C.R.A. No. 1511 of 1960 decided on 21st November, 1962). The view expressed by Bhasme J. has also been dissented by P.B. Sawant, J. in *Damji Nansi's case*, 1979 BCR 670 by Sharad Manohar, J. in *Dinkar Vaidya's case*, AIR 1981 Bom. 190 by S.J. Deshpande, J. in *Mrs. Suman Damani's case* 1986 Mah. R.C. J. 376 and by A.C. Agarwal, J. in *Goregaon Malayalee Samaj's case* 1987 Mah.R.C. J. 701. More over in view of the decision of the Apex Court in *Jamnadas Dharamdas vs. Dr. J. Joseph*, AIR 1980 SC 1605, with respect it is not possible for me to agree with the view expressed by Bhasme, J. that the sub-tenants or licensees of the structures inducted in the structures by the lessee of the plot will still be entitled to claim protection of the provisions of section 14 or 15-A of the Rent Act despite the decree for eviction being passed against the tenants under the provisions of the Rent Act. There is thus no substance in the first contention advanced on behalf of the obstructionists.

19) **Thus it is settled position of law as expounded by the Apex Court in *Jamnadas Dharamdas* (supra) that obstructionist claiming protection after suffering of decree of eviction by a tenant cannot defeat landlord's entitlement to claim possession of his land and if any structure is built on the land, such structure is at the risk of the tenant and at the end of the term, the land must be returned to the landlord and persons inducted in such structures cannot oppose execution of the decree.** Thus, if Defendant-M/s. Bhide Textile Industry has inducted Applicants/their predecessor-in-title in the constructed portion of the suit property during pendency of the suit, the tenant has done so at its own risk and Applicants/predecessor-in-title have occupied the structures at their own risk. **Their status vis-a-vis the land is necessarily that of lessee and they cannot claim any higher status. Once the tenant is directed to vacate, his licensee must also vacate the structures on the land.** This position of law is repeatedly expounded in various other judgments relied upon by Mr. Jahagirdar.

(emphasis and underlining added)

63. In ***Virji Nathuram*** (supra) the Single Judge of this Court has held in para-9 of the judgment as under:

9. The argument is highly attractive. Though this argument had not been advanced in such terms in the Court below, since it is based on the facts already on record and it is raised in the form of a legal proposition, I have heard Mr. Walavalkar at length on the same. In my opinion, though, as mentioned above, the argument is highly attractive, it ignores one basic ingredient in the dual relationship which has come into existence as a result of the lease deed executed by the respondent in favour of the original lessee and the law laid down by the long line of decisions to which I have already made reference earlier. The original lessee has naturally got to be evicted pursuant to the decree passed in the suit preferred by the respondent. The original lessee has to be evicted from the entire land which was the subject-matter of the lease which has now been determined. **Undoubtedly, as has been pointed out repeatedly, the original lease has permitted the erection of a superstructure on the land and the induction of third parties in the said superstructure. The persons so inducted were no doubt the tenants of the superstructure which was erected. The status of the persons who were inducted, though legally, in the superstructure vis-a-vis the land is necessarily that of licensees and not any other higher status.** At present the decree is being sought to be executed in respect of the land which was the subject-matter of the original lease and upon which the status of the petitioners is nothing more than that of licensees. **The correct legal position is that on the determination of the lease or other interests which are created on the land including the superstructure, the interest, if it can be so called, of the licensees has necessarily to come to an end.** The decree which is being executed by the respondent cannot be properly executed unless the status of the petitioners as licensees on the land also comes to an end. It is in this sense that the petitioners have got to be evicted from the suit land. This cannot be done unless naturally they are also evicted from the structure which is standing on the land in question. **Therefore, in execution of the decree by the respondent inexorably the possession of the petitioners of the land as licensees must also come to an end.** The petitioners cannot remain in possession of

the structure unless they have a right to remain in possession of the land as licensees, which they are not entitled to do in view of the decree which has been validly passed against the lessee. The petitioners, therefore, cannot resist the execution of the decree which had been undoubtedly passed validly against the original lessee. All the subsidiary interests which were created, even if legal, by the original lessee pursuant to the lease deed must necessarily come to an end unless otherwise they are protected under the provisions of the Bombay Rent Act. The possession of a licensee in the year 1964 when the suit was filed could not survive the determination of the lease in respect of the land on which the licence was created. It is thus that the petitioners do not enjoy any protection even in respect of the structure in which they have been inducted legally pursuant to the term of the lease.

(emphasis added)

64. In ***Virji Nathuram*** this Court has recognised the principle that mere permission to erect a superstructure on the land, and induction of the parties in the superstructure does not create a right in favour of occupier of such superstructure to obstruct execution of decree.

65. In ***C. Albert Morris Versus. K. Chandrasekaran and others***⁵ the Apex Court has held in para-40 of the judgment as under :

40. We have already referred to the arguments advanced by both the parties in regard to the nature of tenancy and the statutory protection. It is abundantly clear from the recitals in the plaint, the Schedule to the notice and to the plaint and also of the lease deed that what was "leased out" was only a vacant site to put up a petrol bunk with accessory constructions thereon. **The mention of a small shed in the current lease undoubtedly belonged to the tenant himself and, therefore, the building put up by the tenant situated in the vacant site belonging to the landlord cannot be said to be the building of the landlord in order to attract the statutory protection of the Rent Control Act.** This issue is, therefore, answered against the tenant.

(emphasis added)

66. Thus, in ***Ramkrishna Girishchandra Dode, Jamnadas Dharamdas, C. Albert Morris, Sanjay Ramchandra Parab*** and ***Virji Nathuram*** it is repeatedly held that a person, inducted by the lessee in structure

5 2006 1 SCC 228

constructed by him as per permission granted under the lease, is not entitled to claim protection of possession of structures constructed by the lessee and that he must vacate the structure when decree against the lessee is executed.

18) Thus, in the present case, no independent right could be established by the Applicant to occupy the structures in his possession.

19) The Applicant has thus failed to prove existence of any independent right to occupy the suit premises. The Revision Application is devoid of merits. It is accordingly **dismissed** with no order as to costs.

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[SANDEEP V. MARNE, J.]