

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.11649 OF 2014

Sanjiv Gurudev Gupta

... Petitioner

V/s.

Nilanjan Das

...Respondent

Mr. S. Shamim i/b. Shamim & Co. for the Petitioner.

CORAM: K.K. TATED, J.
DATED : DECEMBER 24, 2014

PC. :

1. Heard the learned counsel for the parties. By this petition under Article 227 of the Constitution of India the Petitioner is challenging order dated 04/12/2014 passed by the Additional Commissioner, Konkan Division, Mumbai in Revision Application No.233/2014 rejecting the Petitioner's Application to deposit the amount by demand draft.

2. In the present proceedings the Additional Collector, Konkan Division, Mumbai, by order dated 18/09/2014 in Revision Application No.233/2014 granted stay to the order dated 31/05/2014 passed by the competent authority under Maharashtra Rent Control Act, on the condition that the Petitioner should deposit the entire outstanding amount within two weeks. Pursuant to the said order, the Petitioner, by their letter dated 30/09/2014 deposited a cheque No.068897 dated

30/09/2014 drawn on Axis Bank in the sum of Rs.5,61,000/- in the office of competent authority, Konkan Division. The said cheque was dishonoured and hence the Petitioner, by their letter dated 11/12/2014 tendered a banker's cheque bearing No.471141 dated 11/12/2014 drawn on Dhanlaxmi bank in the sum of Rs.5,61,000/-. The said bankers' cheque was not accepted by the office of the competent authority on the ground that the court has not passed any order for accepting the said Demand Draft. Thereafter, when the matter was on board before the Additional Collector, Konkan Division, Mumbai on 04/12/2014 at that time the Petitioner made oral Application for allowing them to deposit the amount by Demand Draft. The said request was rejected by the Authority on the ground that the Petitioner failed and neglected to deposit the amount within the stipulated time as per the order dated 18/09/2014. Thereafter the Petitioner through their Advocate wrote a letter dated 11/12/2014 to the competent authority for allowing him to deposit the amount of Rs.5,61,000/- by bankers' cheque bearing No.471141 dated 11/12/2014. On 11/12/2014 the Authority passed the following order:

“Heard arguments of both the sides. Time is granted upto 18/12/2014 for filing written arguments. Closed for orders.”

3. The learned counsel for the Petitioner submits that though the Petitioner tendered cheque within the stipulated time as per order dated 18/09/2014 the office of the Additional Collector, Konkan Division, Mumbai failed to deposit the same within the stipulated time. He submits that, in between, the Petitioner issued another cheque to third party and because of that, the cheque issued in the name of competent authority was dishonoured for want of sufficient funds. He

submits that as soon as the learned counsel for the Petitioner learnt about the dishonour of the cheque, he made an Application before the authority allowing the Petitioner to deposit the amount by Demand Draft. Same was not considered by the Authority and matter was closed for orders.

4. The learned counsel for the Petitioner submits that in the interest of justice, this Hon'ble Court be pleased to direct the authority to accept the cheque of Rs.5,61,000/- in compliance of order dated 18/09/2014. He submits that if the same is not allowed, irreparable loss, harm and injury will be caused to the Petitioner.

5. It is to be noted that in the present proceedings, the Additional Commissioner, Konkan Division, Mumbai vide its order dated 18/09/2014 in Revision Application No.233/2014 directed the Petitioner to deposit the entire outstanding amount within two weeks. The cheque issued by the Petitioner was dishonoured by their bank on the ground "insufficient funds". Though thereafter the Petitioner tendered amount by bankers' cheque, the same was beyond the time limit granted by the Additional Commissioner. Thereafter on 11/12/2014 both the counsel argued the matter and the matter was closed for orders. As the matter was already closed for orders, I do not find any reason to allow the Petitioner to deposit the amount to comply with the order dated 18/09/2014. Hence, the Writ Petition is rejected.

(K.K. TATED, J.)