

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 431 OF 2015

LIRA MARGARET LOBO. ... Petitioner
Versus
CARLOS SALVADOR PIRES AND 19 ORS., ... Respondents

Mr. Jagannath Jayant Mulgaonkar, Advocate for the Petitioner.

Coram:- F. M. REIS, J.

Date:- 3rd July, 2015

P.C.

Heard Shri Mulgaonkar, learned Counsel appearing for the Petitioner.

2. The above Petition challenges an Order passed by the Appellate Court whereby the operation of the impugned Judgment and Decree passed by the learned Trial Court directing the restoration of possession in favour of the Petitioner came to be granted without imposing any condition.

3. Shri J. J. Mulgaonkar, learned Counsel appearing for the Petitioner, pointed out that the limited challenge in the above Writ Petition is that the learned Judge has not imposed any conditions whilst staying the operation of the Judgment and Decree impugned before the Appellate Court. Learned Counsel further pointed out that it is well settled that in cases of eviction, the person who is occupying

the premises has to be put on terms. In support of his submissions, the learned Counsel has relied upon the Judgment of the Apex Court reported in (2008) 3 S.C.C. 299 in the case of Pradeep Kumar vs. Hajari Lal and (2005) 1 S.C.C. 705 in the case of Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.

4. I have examined the said Judgments of the Apex Court. The Judgments are with regard to disputes between the Landlords and tenants and evictions under the Rent Control Act. In such circumstances, directing the deposit of compensation and/or arrears of rent cannot be disputed. But, however, in the present case, the dispute is of title and restoration of possession has been ordered by the Trial Court which is impugned before the Appellate Court. In case the Petitioner ultimately succeeds in the Appeal, the Petitioner can claim mesne profits/compensation under Order 20 of the Civil Procedure Code. In such circumstances, I find that there is no jurisdictional error committed by the learned Judge whilst passing the impugned Order.

5. Learned Counsel appearing for the Petitioner pointed out that the Appeal be expedited.

6. In the peculiar facts and circumstances of the case, the learned Judge shall expeditiously dispose of the appeal preferably by the Respondents in accordance with law.

7. Subject to the above, the Petition is rejected.

F. M. REIS, J.

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