

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 711 OF 2015

IN

WRIT PETITION NO. 337 OF 2011

SHRI ANTHONY ALEMAO.

... Applicant

Versus

SHRI CAETANO JOSE FERNANDES (SINCE
DEC.) THROUGH LR'S.,

... Respondent

Mr. Nigel Da Costa Frias, Advocate for the applicant.
Mr. S. R. Rivankar, Advocate for the respondents.

Coram:- F. M. REIS, J.

Date:- 4th December, 2015

P.C.

Affidavit in reply filed on behalf of the respondents is
taken on record.

2. Heard Mr. Nigel Da Costa Frias, learned counsel
appearing for the applicant and Mr. S. R. Rivankar, learned counsel
appearing for the respondents.

3. The applicant has approached this Court to exercise its
extraordinary writ jurisdiction under Articles 226 and 227 of the
Constitution of India to examine the correctness and the legality of
the orders passed by the authorities below whereby the applicant was
directed to vacate the disputed premises. While seeking the stay of

the operation of the impugned order to vacate the premises, this Court by an order dated 06.08.2015 imposed a condition to deposit a sum of Rs.2500/- per month from the month of August, 2013 until the disposal of the Writ Petition making it very clear that such deposit shall be subject to the orders which may be passed therein.

4. Mr. Nigel Da Costa Frias, learned counsel appearing for the applicant points out that the amount directed to be deposited is exorbitant as according to him the deposit should match the rent payable by the applicant to the respondents in respect of the subject premises. The learned counsel further submits that the rent was only Rs.275/- per month and as such directing the applicant to deposit a sum of Rs.2500/- per month is not at all justified. The learned counsel further submits that as such the amount so fixed by the Court be modified.

5. On the other hand, Mr. S. R. Rivankar, learned counsel appearing for the respondents submits that the amount which has been deposited was not allowed to be withdrawn by the respondents but only as a condition for granting stay of the eviction ordered by the two authorities below. The learned counsel further submits that such amount is in the context to compensate the respondents if at all at the final stage of the writ petition. The learned counsel as such submits that there is no question of modifying the condition imposed by this Court.

6. During the course of the hearing of the above petition, Mr. Nigel Da Costa Frias, learned counsel appearing for the applicant points out that the applicant is prepared to even allow the respondents to receive a reduced amount without prejudice to his rights and contentions.

7. Mr. Rivankar, learned counsel appearing for the respondents without prejudice to the rights and contentions submits that the respondent no.1(c) Smt. Dinise Antoinette Fernandes would receive such amount on behalf of all the respondents in case the amount is permitted to be withdrawn.

8. By consent of the learned counsel, the amount of Rs.2500/- per month fixed in the order dated 06.08.2015 stands modified to Rs.1500/- per month but however, such amount of Rs.1500/- per month would be paid by the applicant in the hands of the said respondent no.1(c) Smt. Dinise Antoinette Fernandes from the month of August, 2015 until the disposal of the above writ petition. The amount from the month of August, 2015 to December, 2015 shall be paid to the said respondent no.1(c) Smt. Dinise Antoinette Fernandes on behalf of all respondents by the applicant on or before 31.12.2015 and the subsequent amount shall be paid by 15th of every succeeding month.

9. Needless to say that the amount so paid and received by the respondent no.1(c) Smt. Dinise Antoinette Fernandes on behalf of all the respondents are subject to further orders which may be passed in the above writ petition and without prejudice to the rights and contentions of both the parties.

10. With the above modification, the application stands disposed of accordingly.

F. M. REIS, J.

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