

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 332 OF 2015
IN
WRIT PETITION NO. 6152 OF 2010

Pradip D. Sharma

.. Applicant

vs.

Seema S. Shirsat and ors.

.. Respondents

Mr. G.S. Godbole i/b Ms Prabha Badadare for the Applicant.

Mr. Arun Palekar for Respondent No.1.

Mr. A.R. Metkari, AGP for Respondent No.4.

CORAM : M. S. SONAK, J.

DATE : 19 OCTOBER 2015.

P.C. :-

1] By this Civil Application, the Applicant seeks appointment of Court Receiver as also direction to pay compensation of Rs.15,000/- per month in addition to society maintenance and taxes in respect of suit premises, which are admittedly in the occupation of Respondent Nos.1 to 3.

2] The Applicant had instituted proceedings for eviction of the Respondents by alleging that the Respondent Nos.1 to 3 are licensees in respect of suit premises. The case of the Respondent Nos.1 to 3 was that they have purchased the suit premises. Upon elaboration, it is the case of the Respondent Nos.1 to 3 that in pursuance of the

Agreement for Sale, they have been put in possession of the suit premises and consequently, they are entitled to protect their possession. The Revisional Court has accepted the case of the Respondent Nos.1 to 3 that the Agreement, on basis of which the Applicant pleads licence, cannot be said to have been proved.

3] From the aforesaid, the situation which emerges is this. The Respondent Nos.1 to 3 are admittedly in possession of the suit premises. In terms of the Agreement, upon which the Respondents rely, they had to pay total consideration of Rs.4,75,000/-. The amount of Rs.50,000/- has admittedly been received by the Applicant. The Respondent Nos.1 to 3 claim that the balance amount has also been paid, but in cash. There is record which indicates that the Respondent Nos.1 to 3 had issued a cheque for Rs.2 Lacs, which was since dis-honoured. At least, *prima-facie*, therefore, the Respondent Nos.1 to 3 are required to be put on some terms in the matter of their occupation of the suit premises.

4] In terms of Agreement, which has been disbelieved by the Revisional Court, the Licence fees was indicated as Rs.5000/- per month. Admittedly, the Respondent Nos.1 to 3 have been paying the

society maintenance of Rs.1000/- per month. In these circumstances, the ends of justice would be met if the Respondent Nos.1 to 3 are directed to deposit in this Court a sum of Rs.3,000/- per month with effect from 1 February 2015. The arrears to be deposited within a period of eight weeks from today. The amounts to be deposited on or before the 10th day of each succeeding month. The Applicant shall not be entitled to withdraw the amount so deposited. The said amount to be deposited with the Nationalised Bank.

5] Civil Application is disposed of in the aforesaid terms.

(M. S. SONAK, J.)

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