

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2003 OF 2015
IN
WRIT PETITION NO.7191 OF 2003

Libania Joseph Dias.] ... Applicant

Versus

Chandrakant Raghunath Yerlekar]
(Since Deceased), Through Legal Heirs.] ... Respondents

Mr. P. B. Shah for Applicants.
Mr. P. G. Karande for Respondents.

CORAM :- M. S. SONAK, J.
DATE :- JULY 29, 2015

P. C. :-

1. This Civil Application seeks vacation of order dated 16/08/2010 on the ground that the Petitioner in Writ Petition No.7191 of 2003 committed default in compliance with the direction to deposit compensation at the rate of Rs.500/- per month.

2. Mr. Karande, learned Counsel for Respondent-Original Petitioner, candidly concedes that there is a default which extends to about 49 months. He further submits that the Petitioner had met with an accident and was therefore unable either walk or even earn any amount.

3. Even if the aforesaid position may be correct, nothing prevented the Petitioner from at least approaching this Court and seeking some exemption. However, be that as it may, the Original Petitioner has offered to deposit the entire arrears of Rs.24,500/- within a period of one week from today. Further, the Original Petitioner has also volunteered to costs of Rs.10,000/- to the landlord within a period of one week from today. Mr. Karande states that this is a hard case and the financial position as well as the health status of the Original Petitioner are the causes of the default. Mr. Karande states that in the peculiar facts and circumstances of this case, at least one opportunity be given to the Petitioner.

4. Considering the aforesaid circumstances, the Original Petitioner is permitted to deposit the entire arrears up to date before the Small Causes Court within one week from today. Further, within a period of two weeks from today, the Original Petitioner to pay costs of Rs.10,000/- to the landlord. In case there is compliance, the interim order made on 16/08/2010 to continue. However, if within a period of one week the entire arrears are not deposited or costs of Rs.10,000/- are not paid/deposited, the interim order made by this Court on 25/11/2003 shall stand vacated. Further, if there is any default on the part of the Petitioner in complying with the condition imposed by the order dated 16/08/2010, the interim order dated 25/11/2003 to stand vacated.

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

6. The Writ Petition is of the year 2003 and the Respondent is stated to be a senior citizen. Accordingly, place this matter for final hearing in the week commencing on 21/09/2015.

(M. S. SONAK, J.)