

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

WRIT PETITION NO. 4066 OF 2015

Ahmed Sattar Suleman Khan ..Petitioner

Vs.

Mymoona Siddique Mohiddin and Anr. ..Respondents

....

Mr. N.P. Bhavsar, Advocate for Petitioner.

Mr. Khan Javed Akhtar, Advocate for Respondents.

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CORAM : N.M. JAMDAR, J.

DATED : 8 MAY 2015

P.C.:

By this petition, the petitioner challenges the order passed by the Appeal Bench of the Small Causes Court refusing the application for stay pending the appeal filed by the petitioner.

2. In spite of various chances given to the petitioner by the Appeal Bench as well as this Court, the petitioner has not deposited a single rupee towards compensation, even after promising to do so. The learned counsel had taken time till today on the ground that amount of 7 lakhs is ready with him and to test the bonafides the matter was kept today. When the matter was called the learned counsel for the petitioner submitted that money is not deposited, petition be withdrawn and let the decree be executed.

3 There is thus no question of granting any relief to the petitioner. The learned Counsel for the respondent has placed on record a copy of order dated 12 September 2012 passed by this Court (R.V. More, J.) in Writ Petition No. 6535/2012. He submitted that instead of driving the respondent to execute the decree, a receiver be appointed on the suit property with an appropriate direction.

4 The request of the learned Counsel for the respondent is justified and is in consonance of the object of the legislature to make provisions for speedy recovery of premises given on leave and license. The petitioner has refused to pay any amount towards compensation and has only used the legal process to deprive the respondent landlord of the premises. After having driven the respondent through litigation and obtained interim orders on the promises of payment, the petitioner cannot simply withdraw the petition and say that the respondent should execute the decree ,by adopting a lengthy process.

5. It is directed that the Court Receiver shall take possession of the suit premises from the Petitioner on 12 May 2015 and hand over the same to the respondent no.1 as an agent of the Court Receiver, without any royalty. This shall be subject to further orders to be passed in the appeal filed by the petitioner. The Writ

Petition is disposed of in above terms. All parties to act on authenticated copy.

3. Conduct such as the one exhibited by the petitioner must be curbed. The petitioner has misused the Court process and therefore the petitioner shall pay cost of Rs.50,000/- to the respondents within period of four weeks from today. If it is not paid, it shall be recovered as arrears of land revenue.

(N.M. JAMDAR, J.)