

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6618 OF 2013**

Pandurang B. Bhorkar

..Petitioner

Vs.

Mahendra Motilal Pakhere & Ors.

..Respondents

Mr. D. S. Patil for the Petitioner

Mr. A. D. Kango AGP for the Respondent Nos.2 and 3

Mr. Shreyas Adyanthaya for the Respondent No.4

CORAM : R. M. SAVANT, J.

DATE : 22nd SEPTEMBER, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 6-7-2013 passed by the Learned 5th Joint Civil Judge Senior Division, Pune, by which order, the Vishrambaug Police Station was directed to hand over the keys of the lock of the suit shop to the Respondent No.4 herein i.e. the original Defendant No.4 who is the landlord of the shop in question. The said course of action was necessitated in view of the fact that there was a dispute between the Petitioner and the Respondent No.1 as to who is entitled for being handed over the keys. The Respondent No.4 was therefore to keep the keys of the said shop pending the adjudication of the dispute between the Petitioner and the Respondent No.1, by the Civil Court.

2 The above Petition had come up for admission before this Court on 25-2-2105 on which day, additional affidavit bearing the said date i.e. 25-2-2015 was filed on behalf of the Petitioner wherein it was stated that the dispute between the Petitioner and the Respondent No.1 has been amicably settled as evidenced by the Deed of Settlement executed on 4-3-2014 which is notarised on a stamp paper of Rs.500/-. It was further averred in the said affidavit that the Respondent No.1 has already been deleted in Civil Suit No.260 of 2010 by the order dated 4-8-2015. This was on the basis of the application made by the Respondent No.1 to which the Respondent No.4 herein i.e. the landlord is also a party.

3 In so far as the present Suit is concerned i.e. the Regular Civil Suit No. 1008 of 2010. The Respondent No.1 had filed pursis dated 5-10-2014 seeking his deletion which was pending on the day when the above Petition was heard for admission i.e. on 25-2-2015. In view of the aforesaid facts, the Petitioner herein had sought the relief of keys of the shop being handed over to him. However in view of the fact that the application filed by the Respondent No.1 for his deletion was pending before the Trial Court, this Court was of the view that it would be just and proper for the Trial Court to consider the said application for deletion filed by the Respondent No.1 prior to any order being passed in respect of the keys of the shop being handed over to the

Petitioner/Plaintiff. Hence though there was an interim order operating in the above Petition, the Trial Court was directed to consider the said application for deletion filed by the Respondent No.1.

4 Today this Court is informed by the Learned Counsel for the Petitioner that the said application filed by the Respondent No.1 was allowed by an order passed by the Trial Court on 27-3-2015. A photocopy of the said order is tendered across the bar by the Learned Counsel for the Petitioner. In view of the fact that the Petitioner and the Respondent No.1 have arrived at a settlement evidenced by the Deed of Settlement dated 4-3-2014 as also considering the fact that the Respondent No.1 has been deleted from Regular Civil Suit No.260 of 2010 which was at his own behest as also having regard to the fact that the Respondent No.1 has now been deleted from the instant Suit being Regular Civil Suit No.1008 of 2010, there seems to be no impediment for the keys to be handed over to the Petitioner. The Learned Counsel for the Respondent No.4 Mr. Adyanthaya who is present in Court states that the Respondent No.4 would deposit the keys with the Court within one week from date as the keys were handed over to the Respondent No.4 in view of the dispute between the Petitioner and the Respondent No.1. Statement accepted. On the keys being handed over to the Nazir of the Court of the Learned Civil Judge Senior Division, Pune, the Petitioner/Plaintiff would file an application for being handed over the keys back to him. The Trial Court i.e. the Learned

Civil Judge Senior Division Pune would on the application being received direct the keys to be handed over to the Petitioner / Plaintiff in terms of the observations made in the instant order. With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed order