

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5150 OF 2014
WITH
CIVIL APPLICATION NO.2819 OF 2015

Smt. Ved Prakashchandra Khanna.] ... Petitioner

Versus

Smt. Vasanti Y. Kajrolkar and Ors.] ... Respondents

Mr. P. S. Sawant for Petitioner.

Mr. Kunal Bhanage i/b Mr. J. S. Yadav for Respondent Nos.1 and 2.

CORAM :- M. S. SONAK, J.
DATE :- OCTOBER 09, 2015

P. C. :-

1. Civil Application not on board, taken on board at the request of learned Counsel for parties.
2. This petition is directed against the order dated 14/03/2015 made by the Appeal Court in Appeal No.79 of 2008 out of Suit No.365/823 of 2001. Rule has already been issued in this petition on 01/09/2015.

3. The petitioner has suffered yet another decree in R.A.E. & R. Suit No.261/736 of 1998 on 08/11/2014. As against such decree, the petitioner has already instituted an appeal before the Appeal Court. The execution in respect of the decree dated 08/11/2014 has proceeded to some extent. The Appeal Court has, by its order dated 01/04/2015, rejected the petitioner's application for restoration of possession but further part of the execution i.e. removing articles from the suit premises, has been stayed until further orders. Suffice to note that the issues arising out of the decree dated 08/11/2014 and the execution thereof, are pending before the Appeal Court.

4. In the aforesaid circumstances, Mr. Bhanage, learned Counsel for respondent nos.1 and 2, is right in his submission that there is no question of this Court granting any interim relief restraining the execution of the decree dated 14/03/2014 which is the subject matter of this petition. However, it is made clear that on the basis of the decree dated 14/03/2014, the landlord shall not take any steps which will, in any manner, nullify the order made by the Appeal Court on 01/04/2015 in the appeal instituted by the petitioner against the decree dated 08/11/2014.

5. The learned Counsel for petitioner states that in case possession of the suit premises is restored to the petitioner, the landlord should be restrained from executing the decree dated 14/03/2014. At present, such action has not arisen. Therefore, it would be appropriate to observe that if and when, any occasion arises

for execution of decree dated 14/03/2014, then the landlord shall not do so without the leave of this Court. At that stage, the Court shall consider the issue of imposing condition as to reasonable compensation or other condition.

6. Accordingly, Civil Application 2819 of 2015 is disposed of in the aforesaid terms.

7. It is once again clarified that the pendency of this petition shall not be regarded as a bar to the Appeal Court from proceeding with hearing in the appeal as well as the other proceedings therein in the context of decree dated 08/11/2014.

(M. S. SONAK, J.)