

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.496 OF 2015

Ashwini A. Deolekar .. Petitioner
VS.
The State of Maharashtra & anr. .. Respondents

Mr. Himanshu Takke for the Petitioner.
Mr. A.R. Metkari, AGP for Respondent No.1
Ms Sharmila Deshmukh for Respondent No.2-MHADA

CORAM : M. S. SONAK, J.
DATE : 13 FEBRUARY , 2015

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] This petition challenges the orders dated 1 November 2012 in petitioner's Chamber Summons No.904 of 2012 and upon Exhibit-01 in Execution Application No.143 of 2014, by which the City Civil Court at Bombay has held that the decrees which the petitioner has obtained are not executable.

3] Perusal of the impugned orders would indicate that the same, to say the least are cryptic. The orders merely record a conclusion, without there being any reasons whatsoever to back the same. This is certainly not the manner in which the judicial orders can be passed. The same are therefore, set aside on this short ground.

4] Learned counsel for the petitioner points out that the decrees of which execution was applied for, indeed required the judgment debtor to allot the possession of one room in the new building

Samatth Niwas in lieu of room No.7 in old building Devkule Niwas. Learned counsel for respondent No.2 disputes this position by submitting that the decrees in-question are merely declaratory in nature.

5] The impugned orders are set aside on the ground that the same are totally cryptic and contain no reason whatsoever. In these circumstances, it would be appropriate if execution proceedings instituted by the petitioner are restored to the file of the City Civil Court at Bombay and thereafter the City Civil Court decides the same in accordance with law. Needless to mention that the City Civil Court at Bombay in so deciding the execution application will consider the respective contentions of the parties and thereafter decide the matter in accordance with law. Further the City Civil Court shall make a reasoned order in the matter.

6] It is made clear that this Court has not examined the merits of the matter and all contentions are kept open.

7] The impugned orders are quashed and set aside. The execution proceedings are restored to the file of City Civil Court, Bombay, which is directed to dispose of the same in accordance with law.

8] The parties to appear before the City Civil Court at Bombay on 2 March 2015, alongwith an authenticated copy of this order and obtain directions for disposal of the execution application.

9] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

10] All parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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