

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2053/2015

Arun s/o Rambhau Pardhi and another

...Versus...

Ku. Malti d/o Shriram Rane and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.A. Dhabe, Advocate for petitioners
Shri S.M. Patrikar, Advocate for respondent no.1

CORAM : Z.A. HAQ, J.

DATE : 03.08.2015

1. Heard Shri V.A. Dhabe, Advocate for the petitioners and Shri S.M. Patrikar, Advocate for the respondent no.1.
2. The respondent no.1 filed the civil suit against the petitioners praying for decree for eviction, possession and arrears of rent. The respondent filed an application under Order 15 - A of the Code of Civil Procedure and contended that the petitioners were in arrears of rent and they should be directed to pay the arrears of rent. The learned trial Judge by the order dated 6.2.2014 allowed the application filed by the respondent and directed the petitioners to deposit the arrears of rent. As the petitioners raised the dispute regarding the relationship of landlord and tenant, the learned trial Judge did not permit the respondent to withdraw the amount. This order was challenged by the petitioners in revision, which came to be dismissed by the District Court. The petitioners being aggrieved

by the order filed this writ petition. This Court passed an order on 27.4.2015 as follows :

“In view of the order dated 11.03.2015 passed by this Court in Writ Petition No.1300/2015, the Trial Court is expected not to touch the aspect of striking out the defence and shall take into consideration the defence raised by the petitioners in the written statement. It is informed that the matter is for final arguments tomorrow.

Put up this matter on 15.06.2015.”

3. The learned Advocates for the respective parties have informed that the civil suit has been disposed by the trial Court. The learned Advocate for the respondent submits that in view of the disposal of the suit, nothing survives in the petition and the challenge as raised by the petitioners has become infructuous.

4. Shri V.A. Dhabe, the learned Advocate for the petitioners submits that prior to filing of the application (Exh.97), the respondent had filed two applications (Exhs.20 and 69) which were rejected and in view of the order passed on the applications (Exhs.20 and 69), the learned trial Judge could not have allowed the application (Exh.97).

5. Be that as it may, in view of the disposal of the civil suit, in my view, the challenge as raised by the petitioners does not survive for consideration in this petition. The petitioners will be at liberty to raise the challenges in appropriate proceedings, if so advised.

6. The writ petition is dismissed with costs of Rs.2,000/- (Rupees Two Thousand Only) to be paid by the petitioners to the respondent within one month. Copy of receipt be produced on the record of the trial Court within one month.

JUDGE

Wadkar