

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

CIVIL APPLICATION NO. 233 OF 2016
WITH
CIVIL APPLICATION NO. 234 OF 2016
IN
WRIT PETITION NO. 7052 OF 2000

Smt. Shakuntala Shivaji Kadam

... Applicant
(Orig. petitioner)

Vs

Smt. Rajia Begum Islam

... Respondent

Mr. K. N. Kore for the Applicant. ...

CORAM : K. K. TATED, J.
DATE : 7 APRIL, 2016

P.C. :

1 Heard the learned counsel Mr. Kore for applicant/defendant. Though the respondent duly served, no one appeared on behalf of him when the matter called out.

2 This application preferred by the tenant for extension of time to comply the impugned order dated 19th December 2000, passed by this Court in Writ Petition No. 7052 of 2000 by which the interim relief was granted in favour of defendant in-terms of prayer clause (b) on usual terms. Prayer clause (b) of the said writ petition reads thus.

(b) Pending the hearing and final disposal of this petition the execution, implementation or

operation of the order passed by the learned Competent Authority (Rent Act), Konkan Division Bandra, Mumbai in Application No. 8 of 1991 under Section 13-A (2) of the Bombay Rent Act, 1947 on 20th November 2000 may please be stayed.

3 As the applicant failed to comply the order dated 19th December 2000, within stipulated time, the applicant moved before this court for extension of time. This court by order dated 19th April 2010 granted 6 weeks time to comply the same. The said order read thus:-

“Time of eight weeks is granted from today to comply with usual terms subject to which the interim relief was granted on 19th December, 2000. If the compliance is not made within stipulated period of eight weeks, the interim relief granted by this Court will stand vacated without further reference to the Court.”

4 In spite of the extension of time to comply with the order dated 19th December 2000, the applicant failed to deposit the arrears of rent. Hence applicant preferred Civil Application No. 2269 of 2010 for time to comply the order dated 19th April 2000. This court by order dated 8th September 2010, in Civil Application No. 2269 of 2010 extended the period by six weeks to comply the order

dated 19th December 2000. In spite of the twice extension granted by this Court the applicant failed to deposit the arrears of rent within stipulated time. In the meanwhile the respondent filed execution application in Trial Court for possession of the suit premises i.e. Room No. H.W.9-55-1-2, Hanuman Nagar, Khar Danda, Mumbai-400052. Pursuant to the order passed by the executing court the bailiff visited the suit premises and requested applicant to handover the vacant and peaceful possession of the suit premises. At that time, applicant Smt. Shakuntala Kadam, refused to handover the possession of the suit premises on the ground that for last 30 years she was staying in the suit premises. When the bailiff explained to the applicant the reason about his visit, order passed by Trial court as well as this Court, her grand-son Sumit Chavan gave in writing that they will handover peaceful possession to the plaintiff within 20 days. Thereafter the concerned bailiff executed possession warrant and handed over the suit premises to the plaintiff on 8th January 2016.

5 The learned counsel for applicant submits that, the Court bailiff failed to consider the fact that the applicant was ready and willing to comply the order dated 19th December 2000, passed by

this Court. He submits that court bailiff ought to have considered the difficulties faced by the applicant in complying the order dated 19th December 2000. Hence this Hon'ble Court be pleased to extend the time to comply the order dated 19th December 2000. He submits that if time is not extended, irreparable loss will cause to the applicant.

6 I have heard learned counsel Mr. Kore for applicant. It is to be noted that the respondent has obtained possession of the suit premises after following due process of law when there was no stay against her, once the possession warrant is executed, there is no question of extension of time to comply the conditional order. Considering this fact, I do not find any reason to allow the present civil application by granting further extension to the applicant to comply the order passed by this Court on 19th December 2000.

7 Hence Civil Application stand rejected.

(K. K. TATED, J.)