

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.2464/2016

Siddharth Suhas Bhagat

... Petitioner

V/s.

Bimal @ Bimalkumar Mannulal Agarwal

... Respondent

Mr. Sidharth S. Bhagat - petitioner in person.
Nonen for the Respondent.

CORAM: K.K. TATED, J.
DATED : APRIL 6, 2016

P.C. :

1. Heard the petitioner Siddharth Suhas Bhagat - in person. By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 24.11.2015 passed by the Court of Small Causes at Pune below Exhibit- 59 in Civil Suit No.302/2013.

2. In the present proceedings, the respondent plaintiff filed Regular Civil Suit No.302/2013 in the Small Causes Court at Pune for possession of the suit premises i.e. shop being No.10 admeasuring 231.60 sq.ft. in a building known as "Business Guild" constructed on CTS No.122/2002, final plot No.87/2, Erandwane, Pune within the limits of Municipal Corporation Pune. In the earlier proceedings, as the petitioner defendant failed to deposit the compensation as per the order passed by the Trial Court, the Trial Court passed order striking off the petitioner - defendant's defense.

3. Thereafter, the petitioner filed Writ Petition No.5100/2015 in this court. This court, by order dated 23.07.2015 set aside the order passed by the Trial Court striking off the defense of the petitioner - defendant on condition that the defendant shall deposit the entire arrears in the Trial Court within 4 weeks from the date of order. As the petitioner defendant failed to comply with the order passed by this court on 23.07.2015, the respondent plaintiff made application below Exhibit- 59 on 21.10.2015 for direction to the defendant to comply with the order dated 23.07.2015 passed by this court in the Writ Petition No.5100/2015, failing which the defense of the petitioner be struck off for non compliance of the said order. That application was decided by the Trial Court by impugned order dated 24.11.2015. The Trial Court in paragraph 4 specifically recorded that the petitioner defendant failed to comply with the order dated 23.07.2015 passed by this court in Writ Petition No.5100/2015. Moreover, the Trial Court recorded that the petitioner defendant made a statement that it is not possible for him to pay the arrears of license fees in respect of the suit premises. Hence, the Trial Court allowed the application filed by the plaintiff below Exhibit- 59 in Regular Civil Suit No.302/2013 striking off the defense of the defendant. The said order is challenged by the petitioner defendant by way of the present Writ Petition.

4. This court also called upon the petitioner defendant to deposit the arrears of license fees in the Trial Court. He submits that it is not possible for him to comply with the order dated 23.07.2015 passed in Writ Petition No.5100/2015 i.e. to clear the arrears of license fees and

submits that this Hon'ble Court be pleased to allow him to defend the suit No.302/2013 on merits. As the petitioner defendant is not ready to comply with order dated 23.07.2015 passed by this court in Writ Petition No.5100/2015, I do not find any substance in the Writ Petition. Same stands rejected.

(K.K. TATED, J.)