

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.566 OF 2016
IN
WRIT PETITION NO.7366 OF 2015

Seksaria Confectioneries Pvt. Ltd.] ... Applicant

Versus

Vivid Hospitality Pvt. Ltd.] ... Respondents

Mr. R. M. Haridas for Applicant.

Mr. R. S. Apte, Senior Advocate, a/w Mr. Swapnil Ambure & Mr. Raghavendra Mehrotra for Respondent.

CORAM :- R. G. KETKAR, J.

DATE :- SEPTEMBER 01, 2016

P. C. :-

1. Heard Mr. R. M. Haridas, learned Counsel for applicant and Mr. R.S. Apte, learned Senior Counsel for respondents, at length.

2. By this application, the applicant has, *inter alia*, prayed for direction to the opponents (respondents in the main petition) to hand over the vacant and peaceful possession of the suit premises and in the alternative to deposit the entire arrears of license fee of Rs.6,17,46,361/-.

3. In support of this application, Mr. Haridas invited my attention to order dated 04/09/2015 passed by this Court in the above petition.

4. By way of interim relief, this Court directed the opponent to deposit before the Small Causes Court an amount of Rs.1,00,00,000/- (Rupees One Crore Only) within 8 weeks from the date of the order. He submitted that the opponent has not deposited the amount within the stipulated period and even as on date. He, therefore, submitted that the opponent may be directed to hand over possession of the suit premises or in the alternative, they may be directed to deposit the entire arrears of license fee to the tune of Rs.6,17,46,361/-. The matter was heard from time to time so as to enable the opponent to take instructions as to within what time the opponent will deposit the amount of Rs.1 Crore as ordered by this Court on 04/09/2015. Mr. Apte, upon taking instructions, states that the opponents are not in a position to deposit the amount. In fact, the Director of the opponent is already in jail.

5. Having regard to the fact that the opponents in this application and the respondents in the main petition have not complied the order dated 04/09/2015 passed by this Court, liberty is reserved to the applicant/original petitioner to file application under order 39 Rule 11 of CPC for striking out the defence, if such application is not already filed. It will be also open to the applicant to

file application for appointment of a Court Receiver and further for appointing them as agent of the Court Receiver.

6. Mr. Haridas states that within one week from today, the applicants will file application for appointment of a Court Receiver and further appointing the applicants as agent of the Court Receiver and serve copy in advance during this period on the other side. Mr. Apte, learned Senior Advocate, assures that within two weeks from receipt of the application, the opponents will file reply and serve copy in advance on the other side.

7. The applicants are also at liberty to file application under Order 39 Rule 11 of CPC for striking out the defence, if such application is not already filed. The learned Trial Judge is requested to decide the application for appointment of a Court Receiver within 4 weeks from production of authenticated copy of this order. All contentions in this regard are expressly kept open.

8. Civil Application is disposed of accordingly.

(R. G. KETKAR, J.)