

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1361 OF 2016**

Saikrupa Agencies through Proprietor

Nitin R. Salve

..Petitioner

Vs.

Prabhudas Ishwarbhai Patel

..Respondent

Mr. G. R. Agarwal for the Petitioner

Mr. Darshan Zaveri for the Respondent

CORAM : R. M. SAVANT, J.

DATE : 15th FEBRUARY, 2016

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 18-1-2016, passed by the Additional Commissioner, Nashik Division, Nashik, by which order, the application for stay filed by the Petitioner under Section 44 of the Maharashtra Rent Control Act came to be rejected and the directions came to be issued that the Petitioner to hand over possession to the Respondent within one month of the said order. The Revisionary Authority i.e. the Additional Commissioner Konkan Division has therefore refused to grant stay to the order passed by the Competent Authority directing the eviction of the Petitioner. Since the Revision Application is admittedly pending and in terms of the impugned order dated 81-2016 is to come up on 21-3-2016, it would be just and proper to stay the order till the disposal of the Revision

Application by the Additional Commissioner. This would be on the basis that the Petitioner continues to make payment @ Rs.5000/- per month for the suit premises.

2 The Learned Counsel Mr. Agarwal appearing for the Petitioner states that all the arrears on the basis of the amount payable being Rs.5000/- per month would be cleared within two weeks from date. Statement accepted. Hence the following directions :

(i) The order dated 18-1-2016 passed by the Additional Commissioner, Nashik Division Nashik, as also the order passed by the Competent Authority dated 13-11-2014 would stand stayed pending the Revision Application.

(ii) The Petitioner to pay the amount of Rs.5000/- per month and clear all the arrears up to February 2016 within two weeks from date in terms of the statement made by the Learned Counsel Mr. Agarwal.

(iii) In the event, the amount is not paid in terms of the statement made by the Learned Counsel Mr. Agarwal then the benefit of this Order would not enure to the Petitioner and resultantly both the orders dated 13-11-2014 and 18-1-2016 would stand revived and would operate, and then in the said event, the above Petition would be deemed to have been dismissed.

(iv) In the event the amount is deposited in terms of clause (ii) and (iii) above, the Additional Commissioner, Nashik Division, Nashik to hear and decide the Revision Application either on 21-3-2016 or thereafter latest by 31-3-2016. The Additional Commissioner is directed not to grant unnecessary adjournments.

(v) Needless to state that the contentions of parties are kept open for being urged before the Additional Commissioner.

(vi) With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]