

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 42 OF 2016

IN

WRIT PETITION NO. 10710 OF 2012

Vijay Nilkanthrao Bhorkar

.....Petitioner

V/s.

Kiran Chhotalal Patel & Another

.....Respondents

* * * * *

Mr. Anil D'souza i/by. Mr. V.N. Pahuja, Advocate for the petitioner.

Mr. Girin Pandit, Advocate for respondents no.1 and 2.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 24TH JUNE, 2016.

P.C. :-

1). This petition seeks review of the order dated 3rd January, 2013. Mr. D'souza, the learned Advocate appearing for the petitioner, states that there is a factual error in the order, wherein it is stated "since the order dated 29th August, 2011 was limited only for the period of pendency of the application at Exhibit-17, the trial Court granted ad-interim reliefs in the suit pending the hearing of the preliminary issue, which has been framed by the impugned order. No fault can be found with the trial Court for passing an ad-interim order in the suit, until the decision on the preliminary issue". He submits that the original ad-interim order does not

include the direction for deposit of amount of compensation at the rate of Rs.11,000/- per month. His second argument is that this direction is not limited until decision of the preliminary issue. The order dated 29th August, 2011 while framing of preliminary issue, has directed the petitioner not only to file an Undertaking that he will not part with possession of the suit premises but also directs him to deposit in Court an amount of Rs.11,000/- per month towards compensation. The two contentions raised by the petitioner are not correct. Perusal of the directions in the order dated 29th August, 2011 shows that it is for the limited period of pendency of consideration of the preliminary issue and it is an ad-interim order. Mr. Pandit, learned Advocate appearing for respondents no.1 and 2, states that the applicant has not paid the amount of compensation since December, 2014. It is clear that, this Review Petition is filed solely with the intention of getting out of the order as regards the direction to deposit compensation every month for occupying the premises in question. The Review Petition is dismissed with costs. The applicant shall pay costs quantified at Rs.25,000/- to the respondent.

(SMT. R.P. SONDURBALDOTA, J)