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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
CIVIL APPLICATION NO.517 OF 2016 IN
WRIT PETITION NO.831 OF 2016

Allahabad Bank & Ors.	...Applicant
In the matter between	
Brijpal Singh Thakur	...Petitioner
vs.	
Allahabad Bank & Ors.	...Respondents

Mr.V.N.Ajikumar for the applicant
Ms Barsha Parulekar for the respondent

CORAM : A.S.OKA, &
 C.V.BHADANG, JJ.
DATE : FEBRUARY 26, 2016

P.C.:

. Not on board. Taken on board.

1 Papers of this Civil Application were produced by the Advocate for the applicant (respondent in the writ petition) on 24th February 2016. It was adjourned till today to enable the learned counsel for the respondent (the petitioner in the writ petition) to take instructions. Ad-interim relief was granted by this Court on 18th February 2016 protecting the possession of the writ petitioner. What is pointed out by the learned counsel for the applicant is the averment made in paragraph 27 of the writ petition which reads thus:

"27 The respondent No.3 in violation of

Section 83 of the Code of Criminal Procedure
r/w Order 40 of the Code of Civil Procedure
evicted the petitioner in the month of March
2015 from the premises without notice."

There is no averment made thereafter that the
possession was lawfully restored to the writ
petitioner.

2 The attention of the learned counsel for the
writ petitioner was invited to the said averment on
24th February 2016. Today, she has tendered certain
documents indicating that the petitioner is
undergoing dialysis. She states that what is stated
in paragraph 27 is an inadvertent mistake. She
relied upon the rent receipts. The submission of
the learned counsel for the respondent in the writ
petition is that symbolic possession of the premises
was taken in 2013 when the premises was found to be
closed and all the rent receipts appeared to be
created subsequently on the same date. There is an
assertion in the paragraph 27 of the petition that
the petitioner was dispossessed in March 2015. Even
assuming that the petitioner is in possession today,
unless it is shown that the possession was lawfully
restored, the petitioner is not entitled to any
protection. Accordingly, ad-interim relief granted
in the writ petition is vacated. Civil Application
is disposed of.