

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 388 OF 2015
IN
CIVIL REVISION APPLICATION NO.694 OF 2013**

M/S. New Great Transport Company & Anr.	..Applicants
Vs.	
Mohanlal Ghansham Kukreja & Ors.	..Respondents

Ms. S. I. Shah i/b S. I. Shah & Co. for the Applicants
Mr. Prakash Ganwani i/b Ms Rajrani D Khosla for the Respondents

CORAM : R. M. SAVANT, J.
DATE : 17th FEBRUARY, 2016

P.C.

1 The above Civil Application has been filed principally for restoration of the suit premises to the Applicant i.e. the original Defendant No.1 to the Suit. It is the case of the Applicant that prior to the period stipulated by the Executing Court i.e. 10-2-2014 which was by order dated 28-1-2014. The Respondent / Landlord has taken over the suit premises by breaking open the lock. The same was also according to the Applicant in the teeth of the Civil Revision Application No.694 of 2013 filed by the Applicant which has been admitted by this Court. It is therefore the case of the Applicant that without waiting for the Applicant to obtain any orders from this Court by way of interim reliefs that the lock of the suit premises was broken open and possession was taken.

2 During the course of the hearing of the above Civil Application, it has transpired that the Applicant has filed Marji Application No.237 of 2014 in Execution Application No.7 of 2014 in R.A.E. Suit No.3417 of 1986 for the same relief based on the same facts. It seems that the said Marji Application No.237 of 2014 has been heard, however is being adjourned from time to time for passing of orders. In view of the fact that for identical reliefs the Marji Application is pending and which is awaiting the orders to be passed by the Executing Court, in my view, it is not necessary at this stage to consider the above Civil Application for the reliefs sought. It would be appropriate to direct the Executing Court i.e. the Learned Judge of the Small Causes Court to pass orders on the said Marji Application No.237 of 2014 latest by 28-2-2016. Contingent upon the decision that would be rendered on the said application, it would be open for the Applicant to take appropriate recourse either in the Small Causes Court itself or before this Court. Needless to state that disposal of the above Civil Application on the ground mentioned in the instant order would not be an impediment for the Applicants to prosecute appropriate proceedings against the order that would be passed by the Executing Court on the said Marji Application.

3 With the aforesaid directions the Civil Application is disposed of.

[R.M.SAVANT, J]