

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

WRIT PETITION NO. 3432 OF 2016

Dimple Audio Video Pvt. Ltd.
through its Director.

.... Petitioner

Versus

Mr. Dinanath Badrinath Chhabra & Ors.

.... Respondents

S.C.Wakankar for Petitioner.

Sarthak Diwan for Respondent nos.1 to 3.

Dinanath B. Chhabra, Respondent no.1 present in the Court.

CORAM : N. M. Jamdar J.

DATE : 18 November 2016.

P.C.

. By the impugned order dated 1 March 2016 permission was granted to the respondent/landlord to withdraw the amount deposited by the petitioner subject to furnishing an undertaking. The undertaking is to the effect that the Respondent will clear all the arrears of the concerned Cantonment Board.

2. The learned Counsel for petitioner submitted that if the respondent is allowed to simplicitor withdraw the amount without

putting the respondent to condition of payment of the necessary dues, the consequence could be that the authority whose dues are not paid may proceed to attach the property. The learned Counsel for the respondents points out that as on date, the respondent has paid these dues from his own pocket.

3. Considering the history of this litigation, it is apparent that the respondent/landlord has not been paid the dues and if only by the impugned order a direction has been given to pay the dues. The respondents have already been directed to submit an undertaking. In addition, the learned Counsel for respondents tenders an affidavit sworn by the Respondent, wherein the undertaking that the arrears of Cantonment Board will be paid, is reiterated. If there are any other statutory dues payable, the Respondents will no doubt pay the same, as the Respondents will ensure that there is no attachment of property for non-payment of dues. In the affidavit that is tendered today, averments are made on various aspects of the matter which need not be gone into as I have accepted only the undertaking given in this affidavit by the Respondents.

4. Accordingly, no interference is warranted in the impugned order. The Respondents, after withdrawal of the amount

upon furnishing undertaking, will abide by the undertaking to pay arrears of dues to the Cantonment Board and other statutory dues, if any.

5. The Respondent no.1 is present in the Court and it is made clear that any breach of the undertaking by the respondents would be considered as contempt of this Court. The terms on which the Respondents have been permitted to withdraw the amount, as stated above, would also apply to the subsequent deposits made by the Petitioner. The writ petition is accordingly disposed of.

(N. M. Jamdar, J.)