

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.282 OF 2016
IN
CIVIL REVISION APPLICATION NO.115 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.M.K.Tanna with Mr.N.M.Dedhia i/b Mr.PM.Shah
for the applicant

Mr.Kunal Vaishnav a/w Mr.Rahul Raut i/b
M/s.N.N.Vaishnawa and Co. for the respondents

CORAM : K. K. TATED, J.
DATE : MAY 5, 2016

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by defendants for extension of time to comply the order dated 27.1.2016 passed by Appellate Bench of Small Causes Court below Exhibit – 7 in Appeal No.407 of 2016 by which the Appellate Bench of Small Causes Court directed defendants to deposit jointly and severally compensation @ Rs.50,000/- per month for the period 21.8.2014 upto January, 2016 within 30 days from the date of passing of the said order.

3 In the present proceeding, the respondents plaintiffs filed L.E.Suit No.142/177 of 2008 for vacant and peaceful possession of the suit premises i.e. 60' x 45' sq.ft “Patra Shed” situated at Sonawala Ice Factory, near Minerva Cinema, Dr.D.M.Marg, Lamington Road, Mumbai 400 007 under section 41 of the Presidency of Small Causes Court, 1882. That Suit was decreed by the Trial Court by the Judgment and Decree dated 21.8.2014. The same was challenged by the defendant by preferring Appeal before the Appellate Bench of Small Causes Court. In that Appeal, the defendant preferred application below Exhibit 7 for stay. At the time of granting stay, the appellate bench of Small Causes Court directed defendants to deposit compensation @ Rs.50,000/- per month. The said order was challenged by the defendants before this court by preferring Civil Revision Application No.115 of 2016. Civil Revision Application stands rejected by order dated 24.2.2016. At that time, this court granted six weeks time to deposit the amount as per order dated 27.1.2016 passed by the Appellate Bench of Small Causes Court.

4 As there is a delay on the part of defendant, they preferred the present Civil Application. The learned counsel for the applicant submits that the applicants are poor workers belonging to lower

income strata of the Society and hence, they are facing financial crises in paying the aforesaid amount. He submits that now the applicants have made arrangement for payment of the same. He submits that in the interest of Justice, this Hon'ble Court be pleased to extend the time to comply the order dated 27.1.2016 by six weeks. He submits that if time is not extended, irreparable loss will be caused to the applicant defendants.

5 On the other hand, the learned counsel for the respondents plaintiffs vehemently opposed the present Civil Application. He filed Affidavit in reply dated 30.4.2016. He submits that the applicant failed to disclose any sufficient cause for extension of time to comply the order dated 27.1.2016. He submits that as there is no merits in the present Civil Application, same is required to be dismissed with costs.

6 I have heard both the sides at length. Considering the submissions made by the learned counsel for the applicant and the reasons disclosed in paragraph 3 of the Civil Application, I am satisfied that the applicant has made out a case for extension of time. Hence, following order is passed:

a) Applicants are directed to comply with the

order dated 27.1.2016 passed by Appellate Bench of Small Causes Court below Exhibit 7 in Appeal No.407 of 2016 on or before 10.6.2016.

b) If amount is not deposited within stipulated time as stated hereinabove, interim protection granted in favour of applicants tenants by the Appellate Bench of Small Causse Court shall stand vacated without referring back to the court and in that case, respondents landlords will be entitled to execute the decree according to law.

c) Civil Application is disposed of accordingly.

JUDGE