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CAW-1353-2016
(sr. no.903/suppl.board)
Tuesday,7.6.2016

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1353 OF 2016

WRIT PETITION NO. 2636 OF 2016

Tukaram Damodar Tandel
V/s.
State of Maharashtra & Ors.

....Applicant

....Respondents

* * * * *

Mr. Uday Warunjikar i/by. Mr. Balasaheb Deshmukh, Advocate for the applicant.

Mr. S.D. Rairikar, AGP for respondents no.1 and 2.

Mr. P.R. Samdhani, Senior Advocate a/w. Mr. Nitesh Ranavat a/w. Mr. Abir P. i/by. Wadia Ghandy & Co., Advocate for respondent no.5.

Mr. Suraj Iyer i/by. Ganesh & Co., Advocate for respondent no.6.

Coram :- Smt. R.P. SondurBaldota, J.

7th June, 2016.

P.C. :-

1). This is the third application by the petitioner for extension of time to vacate the premises in question. Mr. Warunjikar, the learned Advocate appearing for the petitioner, states that the application is pressed only for prayer clause (a).

2). By the order dated 18th March, 2016 the petitioner was

granted time until 30th April, 2016 to vacate the structure in his occupation. After the time granted to vacate the structure expired, the petitioner moved the Court on 2nd May, 2016 for extension without filing application therefor. As the drafts for amount of Rs.3,60,000/- towards the transit rent for a period of 2 years was handed over to the petitioner on that very day, the Court, by way of a sheer indulgence to be shown to the petitioner, extended the time to 20th May, 2016 with a direction that the petitioner shall file an undertaking in writing in the Court, within one week from the date, failing which the respondents were free to proceed against the petitioner in accordance with law. The next application for extension was by way of Civil Application No. 1254 of 2016 which was decided by the order dated 25th May, 2016. That order records that, the petitioner had not filed Undertaking in the Court, pursuant to the order dated 2nd May, 2016. The learned Counsel for respondent no.1, however, conceded for showing indulgence to the petitioner, provided the petitioner atleast orally undertook that he would vacate the structure on/or before 30th May, 2016. But at the request of the learned Advocate for the petitioner, time was extended upto 5th June, 2016 on condition that the petitioner files Undertaking on 26th May, 2016. The petitioner, then filed the Undertaking pursuant to the order. However, he failed to comply with the Undertaking and has taken out the present Civil Application for further extension.

3). The ground on which the applicant seeks extension is stated at para-12 of the application. The applicant states that, on 28th May, 2016 his unmarried sister collapsed all of a sudden and had to be taken to Sion Hospital. She was admitted to the Hospital and underwent tests of C.T. Scan, X-Ray etc. According to the applicant, though she is discharged from the Hospital, she is bedridden and is not in a position to

discharge her day-to-day activities. The medical record of the Sion Hospital to which the sister was admitted for two days is annexed at Exhibit-G to the application. Perusal of the medical record, shows that the sister was suffering from hypertension. The discharge summary at page-66 shows that, she had no fever, no trauma, no chest pain, no palpitation, no breathlessness, no facial deviation, no drooling of saliva, no weakness of any extremity conclusion. The discharge summary is sufficient to indicate that, there is no serious ailment suffered by the sister of the petitioner. In all probability, the thought of shifting from the structure caused hypertension to her. In the circumstances, the application is in fact liable to be dismissed. However, considering the fact that, time to vacate has already expired and that the petitioner is yet to vacate the structure, small extension of one week i.e. until 14th June, 2016 is granted to the petitioner by extending his Undertaking filed on 26th May, 2016 till 14th June, 2016. If the petitioner fails to vacate the premises on/or before 14th June, 2016 not only the respondents will be at liberty to take appropriate action against him but he will also be answerable to the Court for non-compliance with the Undertaking.

(SMT. R.P. SONDURBALDOTA, J)