

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

**CIVIL APPLICATION NO.573 OF 2016
IN
CIVIL REVISION APPLICATION NO.105 OF 2016**

Sahebrao Sitaram Chikne and
Anr.

..Applicants

Vs

Mrs. Dhanesaradevi Mulchand
Jaiswal and Ors.

.. Respondents

Mr. Ramesh D. Kamble, Advocate for Applicants.
Mr. R. D. Mishra, Advocate for Respondents.

CORAM : R.G.KETKAR,J.
DATE : 18/08/2016

PC:

1. Heard Mr. Ramesh Kamble, learned counsel for the applicants and Mr.R.D.Mishra, learned counsel for the respondents.

2. By order dated 26.2.2016, this Court (Coram: R.M.Savant,J.) dismissed the Civil Revision Application preferred by the applicants. On the oral application made on behalf of the applicants, time upto 31.8.2016 was granted to vacate the suit premises subject to filing usual undertaking in this Court within two weeks from the date as also on the condition that the applicants deposit the compensation in terms of the order passed by the Appellate court whilst the Appeal was pending for the

period upto 31.8.2016. It was also cleared that if the undertaking is not filed, the respondents/plaintiffs would be free to execute the decree in accordance with law.

3. Mr. Kamble states that applicant-Sahebrao Sitaram Chikne is present in the Court. He has tendered photocopy of Aadhaar Card which is taken on record and marked 'X' for identification. Upon taking instructions from him, Mr. Kamble states that the time stipulated in the order dated 26.2.2016 for vacating the suit premises on or before 31.8.2016 may be enlarged upto 31.12.2016. He states that the applicants have deposited compensation in the Small Causes Court upto 31.8.2016. He assures that the applicants will go on regularly depositing the compensation upto 31.12.2016 on or before 10th day of the next succeeding month/s under intimation in writing to the respondent's Advocate. He further states that the applicants will not challenge the order dated 26.2.2016 passed by this Court dismissing the Civil Revision Application. Statements made by Mr. Kamble are accepted in the form of undertaking.

4. Mr. Mishra submits that the respondents may be permitted to withdraw amounts deposited and to be deposited by the applicants unconditionally.

5. In view thereof, the time stipulated in the order dated 26.2.2016 is extended upto and inclusive of 31.12.2016 subject

to the applicants and all adult family members residing with them filing usual undertakings with advance copy to the other side within two weeks from today incorporating therein:

- (i) that they are in possession of the suit premises and nobody else is in possession;
- (ii) that they have neither created any third party interest nor parted with possession;
- (iii) that they will hereafter neither create third party interest nor part with possession;
- (iv) that they will go on regularly depositing compensation from September, 2016 onwards on or before 10th day of next succeeding month/s under intimation in writing to the respondents' Advocate.
- (v) that they will hand over vacant and peaceful possession of the suit premises to the respondent on or before 31.12.2016.

6. Subject to the applicants filing undertakings in the aforesaid terms within two weeks from today, time stipulated in the order dated 26.2.2016 is extended upto 31.12.2016. It is made clear that in case the undertakings are not filed within two weeks from today and/or the applicants commit default in depositing the compensation from September, 2016 onwards, the respondents will be at liberty to execute the decree.

7. The respondents are permitted to withdraw the amounts

so deposited and future deposit unconditionally. Civil Application is disposed of in the aforesaid terms. Order accordingly.

(R.G.KETKAR, J.)