

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST.) NO.24521 OF 2015
along with
CIVIL APPLICATION NO.1879 OF 2015
in
SECOND APPEAL (ST.) NO.24521 OF 2015

Rajendra Baban Kapile .. Appellant/Applicant
Vs.
Babanrao Kashinath Jagtap & Anr. .. Respondents

Mr.Rameshwar Gite for the appellant/applicant.
Mr.Girish Agrawal for the respondents.

CORAM : R.D. DHANUKA, J.
DATE : 28th January 2016

P.C.

. Learned counsel appearing for the appellant states that the appellant would not pursue this appeal if this Court grants one year's time to the appellant to vacate the suit premises and would pay reasonable amount of compensation during the period of this one year. Mr.Agrawal, learned counsel for the respondents states that his clients have no objection to grant a reasonable period to the appellant to vacate the premises, however, on the appellant executing an undertaking and on payment of compensation to the respondents at the rate as this Court may deem fit during the said period.

2. I have heard the learned counsel appearing for the parties. The appellant is directed to file an undertaking in writing before this Court within two weeks from today to the effect that the appellant solely is in occupation of the suit premises and would not create any third party rights and/or part with possession in respect of the suit premises during the year commencing from 2nd December 2015. Copy of such undertaking

shall be furnished to the learned advocate representing the respondents simultaneously.

3. The appellant has also agreed to pay a sum of Rs.3,000/- per month as and by way of fixed compensation to the respondents directly every months commencing from 2nd December 2015. First of such payment for the months December, 2015 and January, 2016 shall be paid on or before 10th February 2016. Compensation for the subsequent period shall be paid by the appellant to the respondents on or before 15th day of each month without any default. It is made clear that if the appellant commits any default in making payment of compensation and commits any breach of undertaking, the Court Receiver, High Court, Bombay shall stand appointed in respect of the suit premises who shall take forcible possession totally from the appellant and shall handover the same to the respondents.

4. It is made clear that the learned trial Judge shall decide the suit (200311 of 2015) filed by the appellant seeking specific performance against the respondents without being influenced by the findings rendered by the two Courts below against the appellant.

5. The appellant is directed to remove office objections regarding Court fees within a period of one week from today. It is made clear that upon completion of one year with effect from 2nd December 2015 or in case of any breach of the undertaking or directions issued aforesaid, the appellant shall hand over exclusive peaceful possession to the respondents.

6. Second appeal is disposed of in aforesaid terms. In view of disposal of the second appeal, civil application does not survive and the same is disposed of accordingly.

R.D. DHANUKA, J.