

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

CIVIL APPLICATION NO.170 OF 2016
IN
CIVIL REVISION APPLICATION NO.7 OF 2011

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.Anil Mishra for the applicant

Mr.Mahesh Mishra i/b Mr.Ravi Thankain for the respondent

CORAM : K. K. TATED, J.
DATE : APRIL 1, 2016

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 Liberty granted to the applicant to carry out appropriate amendment in Civil Application and Civil Revision Application during the course of the day.
- 3 This application is preferred by defendant for stay of the operation and implementation of the impugned judgment and decree dated 6.10.2003 passed by Small Causes Court at Bombay, Bandra Branch in R.A.E. and R.Suit No.2767 of 1998 directing applicant tenant to hand over vacant and peaceful possession of the suit premises i.e. Room

No.1, 81/1 'D' Monte Wadi, Bazar Road, Bandra, Mumbai 400 050 to the respondent org.plaintiff.

4 The learned counsel for the applicant submits that as on today they are in possession of the suit premises. He further submits that this court by order dated 2.2.2011 admitted Civil Revision Application and at that time granted relief in terms of prayer clause (b). He further submits that thereafter applicant with permission of this court, carried out appropriate amendment in prayer clauses. Hence, in view of subsequent development carrying out appropriate amendment in prayer clauses of Civil Revision Application, applicant requires order to stay the execution of the decree dated 6.10.2003 passed by the Trial Court. He further submits that if stay is not granted irreparable loss will be caused to the applicant.

5 On the other hand, the learned counsel for the respondent submit that respondent may be permitted to take out appropriate application for fixing interim compensation during the pendency of the present Civil Revision Application.

6 Considering the submissions made by the learned counsel for the applicant,as applicant is in possession of the suit premises and order dated 2.2.2011 passed by this court in Civil Revision

Application No.7 of 2011, I am satisfied that applicant has made out a case for allowing this Civil Application. Hence, following order is passed:

A) Civil Application is allowed in terms of prayer clause (a) on condition that applicant to deposit in Trial Court entire arrears of suit property if any upto April 2016 within two months from today and continue to deposit rent till the hearing and final disposal of the revision application. Prayer clause (a) reads thus:

“(a) Pending the hearing and final disposal of the Civil Revision Application this Hon'ble Court be pleased to stay the execution of the decree and order passed on 6/10/2003 in R.A.E. & R.Suit No.2767 of 1990.”

B) Applicant tenant to deposit monthly rent in Trial Court on or before 10th of each month from May, 2016 failing which interim protection shall stand vacated without referring back to the court.

C) Liberty granted to the respondent plaintiff to withdraw rent without furnishing any security.

D) Liberty granted to the respondent plaintiff if they so desire, to prefer appropriate application for fixing interim compensation in respect of the suit

premises during the pendency of the present Civil Revision Application and that will be decided on its own merits.

E) If there is any default on the part of the applicant in depositing the rent and or arrears of rent in Trial Court, interim protection shall stand vacated without referring back to the court.

F) Civil application stands disposed off accordingly.

JUDGE