

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3084 OF 2015
IN
WRIT PETITION NO.4767 OF 2014

ALONG WITH

WRIT PETITION NO.4766 OF 2014
AND
WRIT PETITION NO.11977 OF 2013

Sharookh S. Sethna

.. Applicant

-Versus-

State of Madhya Pradesh by

C.A. Krishnadas D. Menon

..Respondent

Mr. Pralhad Paranjape with Rushabh Sheth for applicant in C.A.W. 3084 of 2015 and for petitioner in WP4767 of 2014, W.P.4766 of 2014 and for respondent No.1 in W.P.11977 of 2013

Mr. P.S.Dani, Senior Advocate with Rupesh Bobade for respondent in W.P.4767 of 2014 and W.P.4766 of 2014 and for petitioner in W.P.11977 of 2013.

CORAM : N.M.JAMDAR, J.

DATE : 24th November 2016.

PC.

1] During the hearing of this civil application, by consent of parties, W.P.No.4766 of 2014, W.P.No.4767 of 2014 and W.P.No.11977 of 2013 are taken up for disposal, in view of the statement made by the learned Counsel for the applicant.

2] The decree has been passed against the applicant by the learned Small Causes Court, Mumbai, against which an appeal is preferred by the applicant, which is pending. At the time of grant of interim protection to the applicant, the appellate bench of Small Causes Court had fixed the compensation at Rs.2 lakhs. Subsequently, as the applicant did not pay the amount of compensation, no interim relief was granted and on 10th March 2014 the respondents took the possession of the suit property.

3] Writ Petition No.4766 of 2014 is filed by the applicant challenging the compensation awarded by the appellate bench and 4767 of 2014 is filed by the applicant for relief that the respondent should hand over the possession of the suit premises to the applicant. Writ Petition No.11977 of 2013 is filed by the respondents challenging the quantum of Rs.2 lakhs and with a prayer that it should be Rs.2,35,333/-.

4] Learned Counsel for the applicant and the petitioner in W.P.4766 and 4767 of 2014 on instructions from the petitioner who is stated to be present in court, states that the petitioner is not pressing W.P.4766 and 4766 of 2014 and will make a prayer which is made in Civil Application NO.3084 of 2015 before the appellate bench of the Small Causes Court where the appeal filed by the applicant is pending.

5] Therefore, neither the civil application nor these two petitions need to be considered. As regards Writ Petition No.11977 of 2013, the learned Counsel appearing for the petitioner therein states that having taken possession of the suit premises on 10th March 2014 now there is no question of enhancement of compensation at present. Learned Counsel

for the petitioner states that liberty may be reserved to the petitioner to adopt appropriate proceedings before the Small Causes Court if need arises.

6] In these circumstances, W.P.4766 of 2014 and W.P. 4767 of 2014 are disposed of as not pressed with liberty to applicant in civil application No.3084 of 2015 to move the appellate bench of Small Causes Court for the relief prayed for in this application, which application will be considered on its own merits. Writ Petition No.11977 of 2013 is disposed of being infructuous with liberty as aforesaid. All contentions of parties on merits of the appeal are kept open. Parties to act on an authenticated copy of this order.

(N.M.JAMDAR, J)