

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5055 OF 2015

(RADHESHYAM ZUMBARLAL CHANDAK...VS..VIDYA @ VIJAYA SUSHIL KOLHATKAR & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : AUGUST 01, 2016.

Heard Shri U.J. Deshpande, advocate for the petitioner and Shri J.J. Chandurkar, advocate for the respondent No.1.

The petitioner has suffered decree for eviction passed by the trial Court. The petitioner has filed appeal before the District Court in which the application praying for interim order was filed. By the impugned order, the learned District Judge has stayed the execution of decree, however, on condition that during pendency of the appeal the petitioner shall continue to pay the amount of Rs.1,000/- (contractual rent) and in addition the petitioner shall deposit the amount of Rs.8,000/- before the Court. The petitioner, being aggrieved by the condition imposed by the learned District Judge directing the petitioner to deposit Rs.8,000/- per month, has filed this petition.

The submission on behalf of the petitioner is that the learned District Judge has himself recorded that the respondent has not placed any documentary evidence on record to show that the suit property can fetch income of Rs.8,000/- or Rs.9,000/- per month and in view of these

observations it was not appropriate for the learned District Judge to direct the petitioner to deposit Rs.8,000/- per month.

After examining the impugned order, I find that the learned District Judge has not committed any error of jurisdiction. The learned District Judge has consciously dealt with the matter and has directed the petitioner to pay Rs.1,000/- per month (contractual rent) to the respondent and the petitioner is directed to deposit the amount of Rs.8,000/- per month towards occupation charges before the District Court. The amount deposited by the petitioner before the District Court as per the order passed by the learned District Judge will be secured and it is not that the petitioner is directed to pay the amount of Rs.8,000/- per month to the respondent.

In view of the above, I do not find any infirmity or illegality in the impugned order.

The petition is **dismissed** with costs quantified at Rs.Five Thousand to be paid by the petitioner to the respondent within one month.

JUDGE

CERTIFICATE

I certify that this order uploaded is a true and correct copy of original signed order.

Uploaded by : R.B. Raut, PS

Uploaded on : 05/08/2016.