

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3256 OF 2017

M/s K.T. Kubal and Co.

... Petitioner

v/s

Mr Mujibur Rehman Haji Israr Alam Siddiqui ... Respondent

Mr Prashant G. Karande for Petitioner.

Mr G.S. Godbole with Mr B.P. Pandey i/b Mr V.B. Pandey for Respondent.

CORAM : B.P. COLABAWALLA, J.

DATE : JULY 14, 2017

P.C. :

1. Rule. Respondent waives service. Rule made returnable forthwith and heard finally.

2. This Writ Petition has been filed by the original Defendant taking exception to the order dated 13th January 2017, (passed below Exh.21) in Appeal No.303 of 2016. This Application (Exh.21) was filed by the Defendant seeking an extension of time for depositing the arrears of compensation. This Application came to be rejected by the impugned order.

3. Thereafter, in this Writ Petition, this Court by its order dated 16th June 2017 directed that it was open to the Defendant to deposit the arrears in the Small Causes Court, Mumbai and further deposit monthly compensation without prejudice to the rights and contentions of the Plaintiff. Pursuant to this Order, the Defendant has deposited the arrears of compensation amounting to Rs.7,50,000/-.

4. Mr Godbole, learned counsel appearing on behalf of the Plaintiff submitted that considering the order passed by me today in Writ Petition No.80 of 2017, coupled with the fact that the sum of Rs.7,50,000/- has already been deposited in the Court of Small Causes at Mumbai by the Defendant, this Writ Petition may be allowed and the impugned order dated 13th January 2017 be set aside.

5. In view of the aforesaid concession made by Mr Godbole, the impugned order below Exh.21 is hereby quashed and set aside and the Petition is granted in terms of prayer clause (b). Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

(B.P. COLABAWALLA, J.)