

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6193 OF 2017

Zahida Rafique Agha

..Petitioner

Vs.

Brahamanwadi Akaiyavardhak Co-op

Hsg Soc Ltd

..Respondent

Ms. Hina A. Mody, for the Petitioner.

Mr. B. V. Holambe-Patil, for the Respondent.

CORAM :- B. P. COLABAWALLA, J.

DATE :- JUNE 15, 2017.

P. C.:

By this Writ Petition the Petitioner challenges the order dated 27th April, 2016 passed by the Appellate Bench of the Court of Small Causes at Bombay. By this order, the Petitioner herein was directed to pay / deposit rent @ 6,000/- per month with effect from 01.05.2015 up-to date. It was further directed that the Petitioner shall clear the arrears of rent on/before 05.05.2016 and further direction was that the Petitioner shall pay rent from 01.05.2016 on/before 10th day of each month as and when it will become due. If arrears of rent are not cleared as directed in the order, it will carry interest @24% per annum from the date of

default of each month rent. The Respondent herein was also allowed to withdraw the amount of rent on deposit thereof by the Petitioner.

2 When the matter was argued before me, the learned counsel appearing on behalf of the Petitioner only prayed for extension of time to deposit rent as set out in the impugned order dated 27th April, 2016.

3 I have heard the learned counsel appearing on behalf of the parties. According to the counsel for the Petitioner, the Petitioner is the second wife and also she has two children. Her husband does not take care of her and she has to earn for herself. It is in these circumstances that she prayed that time be given to comply with the order dated 27th April, 2016.

4 Purely out of indulgence, I am inclined to do so provided the directions passed by me are strictly complied with.

5 In view of the aforesaid, the following order is passed:-

(a):- The Petitioner is directed to deposit the rent of Rs.6,000/- per month for the period 01.05.2015 till 31st August, 2017 in two installments. The first installment of Rs. 50,000/- be deposited

within a period of one week from today. The balance amount shall be deposited by the Petitioner on/before 31st August, 2017.

(b):- Needless to clarify that after these deposits are made, from the month of September onwards, the Petitioner shall pay rent @ 6,000/- per month on/before the 10th day of each month as and when it will become due.

(c):- If the arrears of rent are not cleared as directed by me, then, it will carry interest @ 24% per annum from the date of default of each month's rent. Once these deposits are made, the Respondent herein is allowed to withdraw the amount deposited towards rent. The Respondent shall also be allowed to withdraw rent that would be deposited from the month of September 2017 onwards.

(d):- This order is passed without prejudice to the rights and contentions of the Petitioner in her RAN Application NO.23 of 2017 (Exhibit-I to the Petition.).

6 The Writ Petition is disposed of in the aforesaid terms.

(B. P. COLABAWALLA, J.)