

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6218 OF 1998

Smt. Sitabai Sajjan Sutar	... Petitioner
vs	
Shri Rajkumar Anant Chaurshiya	... Respondent

None for the Petitioner.

Mr.Rohit Joshi h/f Ms.Gauri Godse for the Respondent.

**CORAM : M.S.SONAK, J.
DATE : JUNE 23, 2017.**

P.C. :

1. Mr.Rohit Joshi, who holds for Miss Godse appears for the Respondent.

2. On 17th November, 2016, this Court, made the following order:-

“The learned counsel for the Respondent points out that by order dated 11th July 2000 the application taken out by the Respondent landlord was disposed of by passing a conditional order, wherein it was stipulated that for breach of the order, interim relief shall stand vacated and the petition itself will be dismissed for non-prosecution. The learned counsel for the Respondent submitted that there has been a breach of this order and

therefore nothing survives in this petition and seeks time to file necessary affidavit in that regard.”

3. Mr.Joshi points out that the Respondent, in compliance with the directions contended in the aforesaid order dated 17th November, 2016 has filed the necessary affidavit on 16th December, 2016.

4. Paragraphs 2 and 3 of the affidavit read as under:-

“2. I say that I had filed Civil Application No. 840 of 2000 in the aforementioned matter for vacating interim order dated 7th December, 1998 passed by this Hon'ble Court. I say that vide Order dated 11th July 2000 this Hon'ble Court directed that if Petitioner fails to deposit the entire arrears upto the date on or before 24th July 2000 in the Trial Court as well as if Petitioner makes two default in payment of future rent in the Trial Court, then Interim Order dated 7th December 1998 shall stand vacated.

3. I say that inspite of Order dated 11th July 2000, Petitioner neither deposited any arrears of rent nor deposited any future rent in the Trial Court and thus interim order dated 7th December 1998 stood vacated. I say that therefore on 4th September 2001, I filed Application at exhibit 14 in Regular Darkhast No. 67 of 1998 for issuance of possession warrant. I say that by Order dated 4th September 2001, learned Trial Judge issued

possession warrant against the Petitioner. A true copy of Application dated 4th September 2001 and Order dated 4th September 2001 are collectively annexed hereto and marked as **EXHIBIT “1”**. I say that accordingly possession warrant was issued at exhibit 15 in Regular Darkhast No. 67 of 1998 and thereafter as per the procedure possession of the suit property i.e. Flat No. 3, Shiv Darshan Building, Behind Municipal School No. 38, Shanti Nagar Road No. 27, Panchpakhadi, Thane was handed over to the Respondent by carrying out Panchnama and effecting possession receipt on 19th September 2001. True copy of possession warrant, Panchnama and Possession receipt are collectively annexed hereto and marked **EXHIBIT “2”**.

5. Today, when the matter is called out, neither the Petitioner nor her Advocate is present. From the perusal of the aforesaid averments in the affidavit dated 16th December, 2016 it is reasonable to proceed on the basis that the Petitioner is not interested in prosecuting the present Petition.

6. Accordingly, this Petition is dismissed for non-prosecution. The interim order, already stands vacated as observed by this Court in the order dated 17th November, 2016.

7. In the following circumstances of the case, there should be no order as to costs.

(M.S.SONAK, J.)