

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 220 OF 2017
IN
CIVIL REVISION APPLICATION NO. 938 OF 2012

Mrs. Rose Mario Pereira ..Applicant
vs.
Mr. Cyril Joseph Mascarenhas & Anr. ..Respondents

WITH
CIVIL APPLICATION NO. 221 OF 2017
IN
CIVIL REVISION APPLICATION NO. 938 OF 2012

Mr. Milton Anthony Enthiado ..Applicant
vs.
Mr. Cyril Joseph Mascarenhas & Anr. ..Respondents

Mr. A. Z. Mookhtiar i/b. F. M. Chawala for Applicant in CAs.
Mr. Nachiket Khaladkar for Original Applicant in CRA.
Mr. S. A. Sawant for Respondent No. 1.

CORAM : M. S. SONAK, J.
DATE: 18 SEPTEMBER 2017

P.C :

1] The applicant represents two landlords. It is his case that 2/3rd of the compensation amount to be paid to the two applicants. The third landlord submits that from the year 1994 it is he who is prosecuting these proceedings and further that he has borne all the expenses towards property taxes, electricity bills and other outgoings.

2] In proceedings of this nature, such disputes cannot be gone

into. Especially such disputes in relation to the past periods cannot be gone into. Accordingly, the parties are at liberty to take out appropriate proceedings before the civil court in order to claim the amounts which according to them are due from each other.

3] However, there is no dispute that Peter Anthony Enthiado is receiving an amount of Rs.10,000/- towards compensation in respect of the suit premises. There is also no dispute that the two applicants are also co-owners in respect of the suit premises. In these circumstances, it is only appropriate that an amount of Rs.3,000/- i.e. total of Rs.6,000/- is to be paid to the two applicants and Peter Anthony Enthiado may retain an amount of Rs.4,000/-. This shall operate from 1st October 2017. Further, from this date, the two applicants shall proportionately bear the expenses towards property taxes, electricity bills and other outgoings in respect of the suit premises.

4] In so far as the past periods are concerned, as indicated earlier, the parties are at liberty to take out appropriate proceedings before the civil courts.

5] Further, the two applicants as well as Peter Anthony Enthiado to file affidavits in this Court containing undertakings that in case this CRA which is instituted by the tenant ultimately succeeds,

they will bring back these amounts together with interest as may be determined by this Court at the stage of final hearing. Unless such an undertaking is filed by the applicants herein, they shall not be entitled to receive any amounts. This shall however be without prejudice to their rights to claim these amounts by instituting a civil suit.

6] It is agreed that with effect from 1st October 2017, the tenant shall pay Rs.3,000/- each to applicant Nos. 1 and 2 and Rs.4,000/- to Peter Anthony Enthiado. This will constitute compliance for the direction to pay Rs.10,000/- to the landlords.

7] Civil Application Nos. 220 of 2017 and 221 of 2017 are disposed of accordingly.

(M. S. SONAK, J.)

Chandka