

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

WRIT PETITION NO. 10736 OF 2017

Rasiklal Manilal Bhuta And Ors.

...Petitioners

Versus

Nita Shobhraj Israni And Ors.

...Respondents

Mr.Gautam Ankhad a/w Mr.Naresh Chheda i/by M/s.Dhruve
Liladhar & Co. for the Petitioners.

Mr.Amit Tungare a/w Mr.Kaustubh Marathe for Respondent Nos.1,2
and 4.

CORAM : M. S. SONAK, J.

DATE : 11th OCTOBER 2017

P.C.

1. For the order which is proposed to be made, the
presence of respondent No.3 is not necessary.

2. After the matter was argued for some time, the learned
counsel for the parties, agree that this petition can be disposed of
with the following order:-

*“a) Part of the Impugned Order dated 16th August
2017 passed by the Appellate Court of the Small Causes
Court at Mumbai as well as the Part of Order dated 28th
May 2014 passed by the Court of Small Causes Court in
Marji Application No.338 of 2012 in the said Suit, is set*

aside to the extent of the restitution/restoration of the possession of the Suit Premises (i.e. Suit Premises being A1/6, New Sion Co.Op. Housing Society Ltd, Sindhi Colony, Sion, Mumbai-400 022) to the Respondents herein.

b) The Petitioners undertake that they shall not create any third party rights and/or deal with the Suit Premises in any manner whatsoever, pending the disposal of the said Suit, and the Petitioners shall continue to be in use, enjoyment, occupation and possession of the said Suit Premises.

c) The Petitioner's trust shall deposit an ad hoc amount of Rs.20,000/- (Rupees Twenty Thousand only) per month on or before 10th of every calendar month with the Registry of the Court of Small Causes at Mumbai in respect of the said Suit Premises, with effect from 1st November 2017 till final disposal of the said suit.

d) The Registry of the Court of Small Causes Court at Mumbai to invest in Fixed Deposit the said ad hoc amount of Rs.20,000/- (Rupees Twenty Thousand only) per month as deposited by the Petitioners trust till the disposal of the said Suit.

e) The respondent Nos.1,2 and 4 is at liberty to make an application to withdraw the ad hoc amount to be

deposited by the petitioner in terms of Clause-3 above. If such application is made, the same shall be decided by the Small Causes Court on its own merits and in accordance with law. All contentions of all parties are specifically kept open.

3. Further, considering the facts and circumstances of the present case, the Small Causes Court at Mumbai is directed to dispose of the R.A.E. Suit No.2115/2192 of 2008, as expeditiously as possible, and in any case within a period of 18 months from today. All parties to cooperate in the matter of expeditious disposal of the suit.

4. The learned counsel for the respondent Nos.1,2 and 4 states that the correct address of respondent No.3 will be furnished to the learned counsel for the petitioners within a period of one week from today.

5. The learned counsel for respondent Nos.1,2 and 4 also waives notice on behalf of respondent Nos.1,2 and 4 in R.A.E. Suit No.2115/2192 of 2008, so that, there shall be no necessity of fresh service upon these parties in the suit.

6. All concerned to act on the basis of authenticated copy of this order.

7. The parties to appear before the Small Causes Court on 30th October 2017 at 11.00 am and produce authenticated copy of this order.

(M. S. SONAK, J.)