

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO. 7534 OF 2017

DIMPAL DYANESHA LOKHANDE
VERSUS
PANDURANG BHIKA PATIL

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Advocate for Petitioner : Mr. P.B. Rakhurde h/for Mr. Bhapkar
S.B.

Advocate for Respondent : Mr. Gundre Suraj V

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CORAM : V. K. JADHAV, J.
DATED : 16th APRIL, 2018

PER COURT:-

1. Heard finally with consent at the admission stage.
2. The learned counsel for the petitioner submits that in view of the order passed by this Court on 12.06.2017, the petitioner has deposited an amount of Rs. 10,000/- before the Competent Authority at Nashik.
3. The respondent/plaintiff has filed an Enquiry Application No. 9/2016 against the present petitioner before the Competent Authority (Rent Control) Nashik, praying for recovery of the

possession of the constructed house and also for recovery of rent amount of Rs. 21,600/-. The present petitioner has strongly resisted the said application by filing written statement at Exhibit-16.

4. The Competent Authority has framed issues on 22.11.2016 and the respondent/plaintiff had also filed affidavit of evidence on 10.01.2017. On 21.03.2017, the Competent Authority has passed the no cross order as against the petitioner and for setting aside the said no cross order, the petitioner had filed an application below Exhibit-29 on 11.04.2017. However, by impugned order dated 11.04.2017, the Competent Authority has rejected the said application. The learned counsel submits that the amount deposited by the petitioner may be paid to the respondent as cost for setting aside the no cross order passed by the Competent Authority.

5. As the matter pertains to the recovery of the constructed house along with recovery of the rent amount and if the petitioner is not permitted to cross-examine the respondent/plaintiff and his witnesses, the matter would be

decided as good as *exparte* against the present petitioner. The learned counsel submits that there is some inaction/negligence on the part of the petitioner, for which the petitioner can be saddled with costs.

6. The learned counsel for the respondent submits that though the Enquiry Application no. 9/2016 came to be filed way back in the year 2016, the petitioner is not co-operating the Competent Authority and he remained absent on various dates as detailed by the Competent Authority while rejecting the application below Exhibit-29. The learned counsel submits that the rent amount is also due as against the petitioner and during the pendency of this writ petition, the petitioner has not deposited the said amount before the Competent Authority.

7. It appears that the respondent/plaintiff has filed an Enquiry Application No. 9/2016 against the present petitioner before the Competent Authority for recovery of the possession of the constructed house of Plot No. 24 bearing Municipal House No. 5/33/13 along with the recovery of the rent amount. The petitioner has strongly resisted the said application by filing

written statement at Exhibit-16.

8. In view of the same, the petitioner should get one more chance to cross-examine the witnesses of the respondent/plaintiff, however, the petitioner is required to be saddled with some costs. Hence the following order:

ORDER

(i) Writ petition is hereby allowed.

(ii) The impugned order dated 11.4.2017 passed below Exhibit-29 by the Competent Authority, Nashik is hereby quashed and set aside.

(iii) The application below Exhibit-29 is hereby allowed in terms of its prayer clause subject to the costs of Rs. 10,000/-, which is already deposited by the petitioner before the Competent Authority, as directed by this Court and respondent/plaintiff is permitted to withdraw the same.

(iv) The Competent Authority shall decide the proceedings

within one year from today.

(V. K. JADHAV, J.)

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