

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 511 OF 2018
WITH
CA/7657/2018

MAMTA INDRAJEET GHAI AND OTHERS
VERSUS
MAHENDRA SHAMSUNDER SEHGAL AND OTHERS

...
Mr. N.S. Jaju, Advocate for petitioners-applicants
Mr. A.P. Bhandari, Advocate for respondents 1 to 6
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 20-06-2018

ORDER :

1. Heard learned counsel for the parties.
2. Present petition is preferred by the tenants - original defendants, purporting to take exception to the conditions imposed by appellate court while staying execution of decree, whereunder petitioners-tenants have been obligated to pay 50% of Rs.2,15,000/- i.e. Rs. 1,07,500/- within two months from the date of order and the petitioners had been directed to deposit in the court interim compensation from 01-03-2012 till 30-11-2017, within two months from said order and shall keep on paying interim compensation at the rate of Rs.5000/- per month.

3. This court had passed an order on 17-01-2018 directing the petitioners to deposit amount of Rs.2,50,000/- by 20-02-2018 and on that condition had stayed operation of clauses I, II and III of the order passed by appellate court on 07-12-2017.

4. Though, learned counsel for petitioners purports to object to these conditions, referring to certain observations appearing in the decision by the trial court in the suit, contending that respondents may not have any evidence to depict that the rate of rent as considered by trial court has any basis. It would have to be taken into account at this stage, in the discretion of the court, the court has considered that the tenants shall be made liable to pay at the rate as referred to above and for the period as referred to.

5. Learned counsel for respondents submits that about 7 rooms in three storied building, have been let out to present petitioners- tenants.

6. The matter has been pending before this court for almost six months.

7. In the circumstances, it would be expedient to maintain the present position till disposal of the appeal and appeal,

be proceeded with and finally decided within a period of three months from the date of receipt of writ of this order. In view of aforesaid, it may be necessary not to go into merits of the case, as sought to be contended and submitted on behalf of the parties.

8. Learned counsel for petitioners assures that all the prerequisites for making the appeal pending at their instance, would be complied with and appeal would be made ready for hearing at an early date.

9. It is made clear that the merits of appeal pending before appellate court, are noway affected by aforesaid order. In case decision in appeal would not be rendered in stipulated time, for reasons attributable to petitioner, this arrangement would stand revoked.

10. Writ petition is disposed of accordingly.

11. In view of disposal of writ petition, civil application no. 7657 of 2018, seeking amendment of writ petition does not survive and stands disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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