

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL APPLICATION NO. 686 OF 2018  
IN  
CIVIL REVISION APPLICATION NO. 567 OF 2016

Smt. Anjamma N. Madas .. Applicant  
vs.  
Shriniwas H. Madas and anr. .. Respondents

Mr. Shrishail Sakhare for the Applicant.  
Mr. Samir Kumbhakoni for the Respondent.

**CORAM : M. S. SONAK, J.**  
**DATE : 14 DECEMBER 2018.**

**P.C. :-**

- 1] Heard the learned counsel for the parties.
- 2] The order dated 29<sup>th</sup> November 2016 made in this matter reads as follows:

*“The matter was adjourned to enable the Respondent to take instructions as the learned counsel for the Applicant at the out set, on instruction had stated that if some time is granted to vacate the premises, the Applicant will not press the Revision Application on merits. The learned counsel for the Respondents states that Respondent is ready to give two years time to the Applicant to vacate the tenanted premises. The learned counsel for the Applicant, on instruction states, that it is a reasonable period.*

*2. Accordingly, the Civil Revision Application is dismissed as not pressed.*

*3. However, in view of the statements made by the learned counsel for the Applicant, inspite of the dismissal of the Revision Application, two years time i.e. on 30 November 2018 is granted to the Applicant to vacate the suit premises, on the following conditions:*

*i) That as the Applicant will file an affidavit that the Applicant alone is in possession of the suit premises and Applicant will not create any third party rights or part with the possession of the suit premises, and the Applicant will keep paying the rent regularly and clear arrears, if any, within 3 weeks from today.*

*ii) Applicant will handover vacant and peaceful possession of the suit premises to the Respondent on or before 30 November 2018.*

*iii) The affidavit/undertaking will be filed within the period of three weeks from today.*

*iv) If the affidavit/undertaking is not filed within three weeks from today, the decree shall become executable forthwith.*

*4. Place the application on board under the caption 'for Directions' for reporting compliance on 20 December 2016.'*

3] The period of two years has already expired. Now, this Civil Application is taken up seeking leave to the applicant to reside in the suit premises till her death or alternatively the period to vacate may be extended by a period of further two years. The reasons set out in the application is that the applicant suffers from Dementia-A/Z and is bed ridden.

4] The learned counsel for the respondents points out that since the very same reason was given earlier, this Court, by its order dated 29<sup>th</sup> November 2016 granted the applicant two years time. He points out that no arrears of rent have been

paid even though, time was granted subject to regular payment of rent/arrears. The learned counsel for the applicant, however, states that as per his instructions there are no arrears and the rents have been regularly paid. Even assuming that the rents have been regularly paid and there are no arrears, it will not be possible to grant relief in terms of prayer clause (a) of this Civil Application. The two years time was granted taking into consideration the health of the applicant. Now, it is really not possible to grant any further extension unless the respondents were to consent to the same. The learned counsel for the respondents states that the respondents are unwilling to consent for any further extension of time.

5] Although, the present application is liable to be dismissed, the executing authorities are directed not to execute the possession warrant until 31<sup>st</sup> January 2019 because this is the reasonable time necessary for the applicant to make alternative arrangements.

6] Civil Application is dismissed with aforesaid directions for non-execution of the possession warrant till 31<sup>st</sup> January 2019.

**(M. S. SONAK, J.)**