

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****Civil Application NO. 22 OF 2018****IN****Civil Revision Application NO. 504 OF 2016**

Mrs. R.A.Thandani (deceased), Harish Arjun  
Thadani And Anr

...Applicants

*Versus*

Devchand Hirji Sangoi @ Shah And Ors

...Respondents

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Mr.J.A.Sarkhot with Mr.V.M.Almaida i/b. Mr.D.D.Raut, for the  
Applicants.

Mr.Mukesh V.Chheda, for the Applicant in CAC 297/17.

Mr.R.M.Haridas, for, for the Respondents.

Mr.Malvankar Section Officer from the Court Receiver's Office present.

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**CORAM : G.S.KULKARNI, J.**

**DATE : 15<sup>th</sup> JANUARY, 2018**

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**P.C. :**

1. Leave to amend to add the developer as respondent no.7 in the Civil Application.
2. The revision applicant has filed this civil application making the following prayers:-

“(a) That the order dated 18.12.2017 passed by this Hon'ble

Court in Civil Application No.297 of 2017 be modified by:

- (i) Directing the Court Receiver to intimate the Applicant 3 weeks in advance to vacate the suit premises in writing;
- (ii) By directing the Developer (Respondent No.7) to provide alternate accommodation to the Applicant in the nearby vicinity;
- (iii) In the alternative the Developer (Respondent No.7) be directed to deposit a sum of Rs.2,00,000/- in this Hon'ble Court being the deposit amount to be given towards alternate accommodation with a liberty to the applicant to withdraw the same in addition to the sum of Rs.6,03,031/- agreed to be paid every 11 months;
- (iv) The Court Receiver be directed to hand over the possession of the suit premises after the development is completed by the Developer (Respondent No.7) subject to pendency of any litigation/proceedings between the parties hereto and subject to outcome of the said litigation;
- (v) The Developer (Respondent no.7) be directed to allot permanent accommodation in the same location the suit premises is situate subject to outcome of the Civil Revision Application;
- (vi) That the Developer (Respondent No.7) be directed to disclose/furnish within one week of the passing of the order of this Hon'ble Court regarding RERA, the final Layout Plan and the location of the suit premises after the completion of the development;

2. By an order dated 18 December 2017 this Court on an application filed by the developer-Colo Color Private Limited, who is now impleaded as respondent no.7, this Court had appointed Court

Receiver, High Court, Bombay as the receiver in respect of shop no.8 (for short “the suit premises”) in view of the fact that the developer was to undertake redevelopment of the suit premises and that certain interim arrangement was required to be made till the dispute in the revision application is adjudicated. The Court had passed the following order:-

- “i. The Court Receiver, High Court, Bombay, is appointed as a Receiver in respect of the Shop No.8 (suit premises) who shall take formal possession of the said premises and hand over the same to the applicant;
  - ii. As the petitioner is in possession of the suit premises, the applicant shall make payment of Rs.6,03,031/- to the petitioner every 11 months as being paid to the other tenants;
  - iii. Such amounts shall be continued to be paid by the applicant to the revision petitioner till the development is complete without any default;
  - iv. Respondent in the Revision Application/tenant is at liberty to file appropriate proceeding seeking any interim compensation, if any, to be fixed by the Court pending the adjudication of the Civil Revision Application;
  - v. All contentions of the parties in that regard are expressly kept open;
  - vi. The applicant shall bear costs and expenses of the Receiver.
8. Mr.Chheda, learned Counsel for the applicant, states that his client shall make payment of the amount of Rs.6,03,031/- within a period of two days from today and on receipt of such

amount, Mr.Marathe, learned Counsel for petitioner states that his client shall vacate the premises within two weeks from the receipt of such payment.

9. The parties agree that the above arrangement shall be brought to the notice of MHADA in the 95A eviction proceedings.

10. In view of the above directions, it is appropriate that the applicant be added as a party to the petition. Intervention of the applicant is accordingly allowed.

11. Necessary amendment be carried out within a period of one week from today.

12. Civil Application is accordingly disposed of in the above terms. No costs.”

3. It is informed by the learned Counsel for the developer that as noted in the above order, an amount of Rs.6,03,031/- has already been paid to the revision applicant, as also the Court Receiver has taken formal possession of the premises on 3 January 2018. The revision-applicant however has so far not vacated the suit premises which were required to be vacated within two weeks of receipt of the amount of Rs.6,03,031/-. Today the application is that in addition to the said amount of Rs.6,03,031/-, the developer be directed to pay an amount of Rs.2,00,000/- to enable the revision applicant to pay the deposit to obtain the alternate accommodation. Learned Counsel for the respondent-developer has no objection for payment of such amount

and on instructions he states that the said amount of Rs.2,00,000/- which is by way of deposit shall be paid by the respondent-developer to the revision applicant by tomorrow i.e. 16 January 2018. Needless to observe that this amount is liable to be returned/repaid by the revision-applicant to the developer after the purpose of the alternate premises and/or licence in respect of alternate premises is terminated. Learned Counsel for the revision applicant, accordingly, on instructions, states that the said amount would be returned to the respondent-developer. The statement is accepted.

4. As noted above as per the directions as contained in paragraph 8 of the order dated 18 December 2017, this Court had directed that on receipt of an amount of Rs.6,03,031/- , the revision applicant shall vacate the premises within two weeks from receipt of such payment. However, in view of this demand for rupees two lakhs as asserted in the application, the physical possession of the premises continues with the revision-applicant. Learned Counsel for the revision-applicant on instructions states that within 48 hours of receipt of an amount of Rs.2,00,000/- from respondent-developer, the revision applicant shall hand over vacant possession of the premises to the

Court Receiver. The statement is accepted.

5. In view of the above consensus, adjudication in regard to prayers (i), (ii) and (iii) is not called for. In regard to prayer clause (iv) and (v), the said prayers would not call for any adjudication at this stage of the proceedings. In any event as observed in paragraph (3) of the order dated 18 December 2017, purely as a matter of interim arrangement till the resolution of the dispute in the above revision application, the Court had thought it appropriate to make the arrangement. It would be useful to note the contents of paragraph (3):-

“3. The prayer today as made in this Civil application is that for the re-development to be undertaken which is agreeable to the original parties i.e. revision petitioner and the original respondent/tenant, an interim arrangement is required to be made so that the applicant can undertake development and after completion of development, permanent alternate premises can be allotted to one of the disputing party who would ultimately become entitled for the permanent alternate accommodation.”

6. In the circumstances, the contentions of the revision-applicant as also the respondents in the civil revision application /

original tenants in that regard are expressly kept open to be agitated at the relevant time and/or after the development of the premises is completed.

7. As regards the prayer clause (vi), learned Counsel for the revision applicant does not press for the said relief and the relief in that regard is rendered infructuous.

8. Civil Application is disposed of in the above terms. No costs.

9. It is clarified that the revision applicant shall strictly comply with the directions as contained in the earlier order as modified by this order and no further indulgence shall be granted on any count.

10. Liberty to the Court Receiver to seek discharge after the physical possession of the premises is handed over to the developer/respondent no.7.

***G.S.KULKARNI, J.***