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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.544 OF 2018

M/s.Pan Asiatic Overseas Pvt. Ltd. ..Petitioner
Vs.
Bell & Company Private Limited ..Respondent

Mr.Jaydeep Deo for Petitioner.
Mr.J.F. Pandey for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 30th JANUARY, 2018

P.C.:

Heard learned Counsel for the parties.

2. Challenge in this petition is to an order dated 8th January 2018 passed by the appellate bench of the Small Causes Court, Mumbai, by which an application filed by the petitioner/appellant seeking further time to deposit the arrears of compensation as per order dated 2nd May 2017 passed below Exhibit 8 in Appeal No.310 of 2015 stands rejected. In the meantime, the respondent/landlord taken out execution proceedings and at that stage, the petitioner/appellant has approached this Court. By an ad-interim order dated 16th January 2018, this Court had stayed the execution proceedings. The respondent has now appeared.

3. Mr.Deo, on instructions of Mr.Akhilesh Mishra, Director of petitioner company, who is present in the Court, states that petitioner is willing to deposit and shall deposit the entire arrears of compensation with the appellate Court in terms of the order dated 2nd May 2017

within a period of two weeks from today. After this petition was heard for some time, it is felt appropriate and in the interest of justice that the time to deposit the amount is extended. The statement of Mr.Deo that the petitioner shall deposit the entire arrears of compensation within two weeks is accepted. Subject to the deposit of the said amount within two weeks from today, the execution proceedings as initiated by the respondent shall not proceed. It is clarified that there shall be no further extension of time to deposit the amount.

4. Needless to observe that if there is a default in making such payment, the execution proceedings shall immediately stand revived and the respondent shall be at liberty to proceed with the execution of the decree.

5. Learned Counsel for the respondent would be correct in his contention that due to non compliance of the orders passed by the appellate bench of the Small Cause Court by the petitioner, the respondent was required to file the execution proceeding and accordingly had pursued the execution proceedings. It is his submission that extension as being granted by this Court ought not to be simplicitor extension and it would be subject to some costs to be imposed on the petitioner. There is some justification and substance in the submission as made on behalf of the respondent. The petitioner is accordingly directed to pay costs of Rs.5,000/- to the respondent within a period of two weeks from today. Payment of costs is a condition precedent.

6. Subject to above directions, the impugned order dated 8th January 2018 passed by the appellate bench of the Small Causes Court is set aside. The petition is accordingly allowed in aforesaid terms.

[G.S. KULKARNI, J.]