

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1590 OF 2018

Sayyed Mohamed Ali	...Petitioner
<i>Versus</i>	
Kumar Mathradas Mathani	
And Anr.	...Respondents

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Mr. Yogendra Pendse, Advocate for the Petitioner.
Mr. R.V. Govilkar a/w. Shaba N. Khan i/b. Govilkar & Asso. for
Respondent No.1.
Ms. Kavita Salunke, AGP, for Respondent No.2.

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CORAM : R. G. KETKAR, J.

DATE : 05th MARCH, 2018

PC.

1. Heard Mr.Yogendra Pendse, learned counsel for the petitioners, Mr.R.V. Govilkar, learned counsel for respondent No.1 and Ms. Kavita Salunke, learned AGP for respondent No.2, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 22.1.2018 passed by the Additional Commissioner, Konkan Division, Mumbai (for short, 'Commissioner') in Revision Application No.77/2018 filed by the petitioner under Section 44 of the Maharashtra Rent Control Act, 1999 (for short, 'Act'). By that order, the Commissioner rejected the stay application filed by the petitioner challenging the order dated 12.12.2017 passed by the Competent Authority (Rent Act), Konkan

Division, Mumbai (for short, 'Competent Authority') and fixed the matter for hearing on 15.2.2018.

3. Rule. Learned Counsel for the respondents waive service on behalf of respective respondents. At the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

4. The only contention that was urged by Mr. Pendse in support of this Petition is that the Commissioner rejected the stay application without giving any reasons. Mr. Govilkar was not in a position to controvert the submission of Mr. Pendse that no reasons are given by the Commissioner for rejecting the stay application.

5. Mr. Pendse states that the petitioner is present in the Court. He has tendered a photo-copy of his Aadhaar card, which is taken on record and marked 'A' for identification. Upon taking instructions from him, Mr. Pendse states that earlier the petitioner used to deposit the license fee directly in the NRO account of the first respondent. He further states that within two weeks from today, the petitioner will comply clause (iii) of the order of the Competent Authority dated 12.12.2017 by depositing the monthly license fee @ Rs.36,000/- from 15.3.2016 till 31.3.2018 directly in the NRO account of the first respondent under intimation in writing to respondent No.1's Advocate.

During this period, the petitioner and all adult family members residing with him will file usual undertaking in this Court with advance copy to other side, incorporating therein :

- (i) that they are in actual possession of the suit premises and nobody else is in possession;
- (ii) that they have so far neither created third party interest nor parted with the possession of the suit premises; and
- (iii) that they will hereafter neither create third party interest nor part with the possession of the suit premises.

6. Mr. Govilkar submitted that respondent No.1 is NRI and is resident of Honkong. He has to leave India by 31.3.2018.

7. In view thereof, the Petition is disposed of in following terms:

- [i] Impugned order dated 22.1.2018 passed by the Commissioner is set aside is set aside.
- [ii] During pendency of the Revision Application, there shall be stay to the order dated 12.12.2017 passed by the Competent Authority in Application No.79/2016 subject to the petitioner depositing Rs.8,64,000/- @ Rs.36,000/- per month from 15.3.2016 till 31.3.2018 within two weeks from today directly in the NRO account of the first respondent under intimation in writing to respondent No.1's Advocate.
- [iii] The petitioner shall file usual undertaking of all the adult family

members residing with him in the suit premises in aforesaid terms within two weeks from today.

- [iv] The learned Counsel for the parties state that they will appear before the Commissioner on 7.3.2018 at 11:00 a.m.
 - [v] The Commissioner is requested to decide the Revision Application on or before 26.3.2018. The learned Counsel for the parties assure that they will extend full cooperation for disposal of the Revision Application and will not seek any undue adjournment.
 - [vi] All contentions of the parties on merits are kept open.
 - [vii] It is expressly made clearly that if the petitioner does not deposit Rs.8,64,000/- @ Rs.36,000/- per month from 15.3.2016 till 31.3.2018 within two weeks from today directly in the NRO account of the first respondent, the Revision Application shall stand dismissed without further reference to the Court.
 - [viii] Rule is made absolute in aforesaid terms.
 - [ix] All concerned parties, including the Commissioner, to act upon an authenticated copy of this order. Order accordingly.
8. List the Petition for reporting compliance on 20.3.2018.

(R. G. KETKAR, J.)