

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.1348 OF 2018

Pushpkumar Sharma	]	Petitioner
Vs.		
Mohamed Mustaq Ali Laljee	]	
and others.	]	Respondents

.....

Mr. Rahul Singh i/b Ajay Kumar Singh, for Petitioner.
Mr. Pradeep J. Thorat, for Respondents No.1 to 3.

.....

CORAM : R.G. KETKAR, J.

DATE : 1ST AUGUST, 2018.

P.C.

Not on board. At the request of Mr. Singh, taken up for admission.

2. Heard Mr. Singh, learned Counsel for the petitioner and Mr. Thorat, learned Counsel for respondents No.1 to 3.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 8th February, 2016 passed by the learned Judge, Court Room No.22 of the Court of Small Causes at Mumbai below Exhibit 41 in R.A.E. Suit No.783/1266 of 2012 as also the judgment and order dated 21st January, 2017 passed by the Appellate Bench of the Court of Small Causes at Mumbai in Revision Application No.232 of 2016. By these orders, the Courts below allowed the application made by the plaintiffs for striking out defence of defendant No.1 due to non compliance of the order dated 16th July, 2014.

4. Mr. Singh states on instructions that defendant No.1 will comply the order dated 16th July, 2014 passed by the learned trial Judge below Exhibit 30 by depositing all arrears of rent amounting to Rs. 13,950/- for the period from October, 2010 till June, 2014 and @ Rs. 310/- from July, 2014 to 31st July, 2018 and that he will go on depositing amount @ Rs. 310/- per month on or before 10th day of each succeeding month during pendency of the suit from August, 2018 onwards. He assures that within three weeks from today, the petitioner will deposit arrears for the period from October, 2010 till 31st July, 2018 under intimation in writing to the learned Counsel for respondents No.1 to 3 and thereafter, will take out application under Order-XXXIX, Rule-11 (2) of the Code of Civil Procedure, 1908 (for short 'C.P.C') for recalling the order dated 8th February, 2016 by which defence of defendant No.1 was struck out. Statements made on instructions are recorded.

5. In view thereof, if defendant No.1 deposits the amount as aforesaid within three weeks from today and thereafter files application under Order-XXXIX, Rule-11 (2) of C.P.C', the learned trial Judge, after ensuring compliance of the order dated 16th July, 2014, will allow that application.

6. Writ Petition is accordingly disposed of.

[R.G. KETKAR, J.]