

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Contempt Petition NO. 10 OF 2017
IN
Writ Petition No.3064 OF 1994

Smt. Premadevi Wd/o Hausala Prasad
Shukla

...Petitioner

Versus

Smt. Azizabai W/o Abdul Karim

...Respondent

....

Ms. Aditi Naikare i/b. P.J. Thorat, Advocate for the Petitioner.

Mr. Manoj Sonawane i/b. K.P. Tiwari, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 23rd OCTOBER, 2018

P.C.

1. Heard Ms. Aditi Naikare, learned counsel for the petitioner and Mr. Manoj Sonawane, learned counsel for the respondent, at length.

2. This Contempt Petition is filed alleging breach of the order dated 18.8.1994 passed by this Court in W.P. No.3064/1994. Said order reads thus :

“ Heard Ms. Singh for the Petitioner and Mr. Tiwari for the first respondent landlady.

2. Mr. Tiwari makes a statement that a part of the decree has already been executed, in the sense that out of the two rooms in dispute, the landlady has

obtained possession of one room. If this be so, both sides are directed to maintain status quo as of this date. They are also directed not to create any third party interests and not to induct any one in possession of the premises in their respective possession and not to part with the said premises. Rule. Hearing expedited.”

3. The case of the petitioner is that while admitting the writ petition, this court recorded that the dispute between the parties is in respect of two rooms. Out of these two rooms, the respondent landlady has obtained possession of one room. The Court, therefore, directed that maintain status quo as of that date. They were further directed not to create third party interests and not to induct any one in possession of the premises in their respective possession and not to part with the said premises. It is the grievance of the petitioner that the respondent landlady has handed over possession of one room to the developer on 10.10.2015 and thus has committed breach of the order dated 18.8.1994. Ms.Naikare further submits that other room is in possession of cousin of the petitioner.

4. On the other hand, Mr.Sonawane submitted that Writ Petition No.3064/1994 was disposed of finally on 8.12.2016 and the petition instituted by the petitioner is allowed and the order passed by the Appellate Bench of the Small Causes Court on 11.3.1994 was set

aside. By that order, the appeal preferred by the respondent landlady directing the petitioners to hand over possession of the suit premises was allowed by the Appellate Court. The trial Court had dismissed the suit and the said decree was set aside and the suit instituted by the first respondent was decreed by the appellate Court. This Court set aside the Appellate Court's order and restored the trial Court's order. In the result, the suit stands dismissed.

5. As the suit instituted by the petitioners is now dismissed by this Court on 8.12.2016, I do not find that this is a fit case for initiating contempt proceedings against the respondents on the ground of alleged breach of the interim order that was operating during pendency of the petition. It will, however, be open to the petitioner to initiate execution proceedings or any other proceedings permissible in law for recovery of possession, if so advised. Keeping all contentions of the parties in that regard open, the notice is discharged. Contempt Petition is disposed of with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)