

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3819 OF 2018

Harish Ramlal Purohit ... Petitioner
Vs.
Sheth Virji Peraj Bhatia Sanitorium and others ... Respondents

Mr. S. M. Oak i/b. Mr. Dilip B. Shinde for Petitioner.
Mr. Vilas Kapile for Respondents.
Mr. D. N. Kher, Court Receiver.

CORAM : R. G. KETKAR, J.
DATE : MAY 3, 2018

P.C. :

Heard Mr. Oak, learned Counsel for the petitioner and Mr. Kapile, learned Counsel for the respondents at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 17.03.2018 passed by the Appellate Bench of the Small Causes Court at Bombay in MARJI/0000060/2018. By that order, the Appellate Court dismissed the Marji Application taken out by the petitioner for condoning the delay of 3335 days with costs of Rs.50,000/- to be paid by the petitioner to respondents No.1 to 4 within 15 days.

3. The matter was heard on various occasions. In the order dated 04.04.2018, statement made by Mr. Oak, on instructions of the petitioner / obstructionist No.2, who was present in the Court, that within two weeks, he will handover possession of the suit premises to the plaintiffs as agent of the Court Receiver, was recorded.

4. In the order dated 27.04.2018, the agreement between the learned

Counsel for the parties that petitioner will handover possession of the suit premises on 28.04.2018 at 11.00 a.m. to the Court Receiver, High Court, Bombay and that Mr. Pradeep K. Bhatia, Trustee of the respondent No.1 will remain present to take possession from the Court Receiver and put his lock over the suit premises was recorded.

5. On 02.05.2018, matter was heard and a copy of the Court Receiver's report dated 02.05.2018, possession receipt dated 28.04.2018 signed by the respondent and copy of the electricity bill dated 02.04.2018 were taken on record and marked 'X colly.' for identification. It is a common ground between the parties that petitioner-obstructionist No.2 has handed over possession of room No.1 approximately admeasuring 220 sq.ft. to the representative of the Court Receiver and the same was handed over to the respondent No.2. Mr. Kapile confirms that respondent No.2 has received possession of room No.1 approximately admeasuring 220 sq.ft.

6. Mr. Oak, upon taking instructions from the petitioner / obstructionist No.2, who is present in the Court, submits that as the obstructionist No.2 has handed over possession of the suit premises, petitioner does not want to press this Petition. He further submitted that as the petitioner is not pressing this Petition, the cost of Rs.50,000/- imposed by the Appellate Court may be waived. He has tendered photocopy of Aadhar Card of petitioner, which is taken on record and marked 'A' for identification.

7. Mr. Kapile, on instructions of respondent No.2 - Pradeep K. Bhatia, one of the Trustees of respondent No.1 Trust, who is present in the Court, submits that respondents have no objection for waiving of the cost imposed by the Appellate Court. He has tendered photocopy of the

identity card of Pradeep K. Bhatia issued by the Election Commission of India, which is taken on record and marked 'B' for identification.

8. In view thereof, Petition is disposed of as not pressed. Cost of Rs.50,000/- imposed by the Appellate Court is waived. Court Receiver is discharged without passing of any accounts. Order accordingly.

(R. G. KETKAR, J.)

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