

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.322 OF 2018
IN
CIVIL REVISION APPLICATION NO.688 OF 2011

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Sandesh D. Patil a/w. Ms. Anusha Amin for the applicant in CAC/322/2018 [respondent in CRA/688/2011].

Mr. Pramod J. Pawar, Advocate for the original applicant in CRA/688/2011.

CORAM : R. G. KETKAR, J.

DATE : 15/06/2018

P.C.:

1. Heard Mr. Sandesh D. Patil, learned Counsel for the applicant this application/respondent in CRA No.688/2011 and Mr. Pramod J. Pawar, learned Counsel for the opponent in this application/applicant in CRA No.688/2011.

2. The parties shall hereinafter referred to as per their status in Civil Revision Application.

3. By order dated 22.11.2011, C.R.A. was admitted by issuing Rule and ad-interim stay of execution of the decree of possession was granted subject to compliance of the usual terms. By order dated 9.2.2012, ad-interim order was confirmed. The respondent took out Civil Application No.132/2017 seeking direction against the applicant to deposit compensation @ Rs.4,000/- per month as a condition for continuing possession despite the eviction decrees. By order dated 7.8.2017, Civil Application was disposed of by directing the applicant to deposit compensation @ Rs.1,500/- per month from January, 2017. Such

deposit is to be made each month i.e. on or before 5th day of each succeeding month in Thane Court. Such deposit is pre-condition for continuing to remain in possession of the suit premises in pursuance of the orders dated 22.11.2011 and 9.2.2012. It was further made clear that in case of two consecutive defaults or three non-consecutive defaults, interim protection shall stand vacated. The arrears w.e.f. 1.1.2017 were ordered to be deposited within a period of two months from 7.8.2017.

4. In support of this application, Mr. Patil submitted that the applicant had deposited Rs.18,000/- in Thane Court on 16.11.2017 covering the period from January, 2017 to December, 2017. The applicant has deposited an amount of Rs.4,500/- covering the period from January, 2018 to March, 2018. He submitted that the applicant was supposed to deposit Rs.1,500/- per month on or before 5th day of each succeeding month. The applicant has not complied that direction. Not only that the applicant has not deposited the compensation for the months of March, April and May, 2018. He submitted that as the deposit was pre-condition for continuing to remain in possession of the suit premises and said direction is not complied by the applicant, interim order deserves to be vacated.

5. Mr. Pawar does not dispute the fact that amount of Rs.18,000/- was deposited in Thane Court on 16.11.2017 covering the period from January, 2017 to December, 2017 and that an amount of Rs.4,500/- representing compensation for January, 2018 to March, 2018 @ Rs.1,500/- on 11.4.2018.

6. As the application is admitted and is pending since, 2011, in my opinion without prejudice to the rights and contentions of the respondent and keeping all his contentions to be agitated at

the time of final hearing of C.R.A. open, I am not inclined to vacate interim order. It is made clear that it will be open for the respondent to bring this aspect before the Court at the time of final hearing of the main C.R.A.

7. Mr. Pawar submits that the applicant is present in the Court and upon taking instructions from him, he submits that in terms of paragraph-6 of the order dated 7.8.2017, the applicant will go in regularly depositing an amount of Rs.1,500/- per month on or before 5th day of each succeeding month in Court of Civil Judge, Senior Division, Thane under intimation in writing to the respondent's Advocate. If the applicant commits two consecutive defaults or three non-consecutive defaults, liberty is reserved to the respondent to take out application for vacating interim order.

8. All Courts, including the Court of Civil Judge, Senior Division, Thane, to act upon the authenticated copy of this order. The applicant shall ensure compliance of this order as regards depositing the amount on or before 5th day of each succeeding month. The trial Court shall permit the applicant to deposit Rs.1,500/- per month on or before 5th day of each succeeding month.

9. Civil Application is disposed of in aforesaid terms. Order accordingly.

(R. G. KETKAR, J.)