

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition (St) NO. 13709 OF 2018

Shri Vijay Shukla

...Petitioner

Versus

M/s. Isha Home Private Limited

And Ors

...Respondents

....

Mr. M.P. Mishra i/b. A.R. Shukla, Advocate for the Petitioner.

Mr. Khan Javed Akhtar, Advocate for the Respondents.

....

CORAM : R. G. KETKAR, J.

DATE : 02nd JULY, 2018

P.C.

1. Heard Mr. M.P. Mishra, learned counsel for the petitioner and Mr. Khan Javed Akhtar, learned counsel for the respondents, at length. Mr. Mishra assures that on or before Friday, 6th July, 2018, the petitioner will remove all office objections.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 5.4.2018 passed by the Appellate Bench of the Court of Small Causes at Mumbai below Exhibit-8 in [A-1] Appeal No.260/2017. By that order, the Appellate Court allowed the application Exhibit-8 filed by the petitioner herein and stayed eviction decree subject to the petitioner depositing

compensation of Rs.49,396/- per month in the Court on or before 10th day of each month/s from the date of decree i.e. 17.2.2017 till decision of the appeal. The petitioner is directed to deposit arrears of compensation either in lumpsum or in three monthly installments from the date of the order.

3. Rule. Mr.Akhtar waives service on behalf of the respondents. Having regard to the narrow controversy raised in this Petition as also 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 matter was heard at length on 19.6.2018 and 25.6.2018. During the course of hearing on 25.6.2018, the Court gave suggestion to the parties to the effect that it is inclined to direct the petitioner to deposit monthly compensation @ Rs.25,000/- per month instead of Rs.49,396/- per month as directed by the Appellate Court.

5. Mr.Mishra sought time to take instructions whether and within what time the petitioner will deposit compensation @ Rs.25,000/- per month. Mr. Akhtar, on instructions, expressed his willingness to accept the suggestion given by the Court. Upon taking instructions from the petitioner, Mr. Mishra states that within eight weeks from today the petitioner will deposit the arrears of

compensation @ Rs.25,000/- per moth from the date of the decree till 30.6.2018 in the Small Causes Court at Mumbai under intimation in writing to the learned Counsel for the respondents and will not seek further extension of time for depositing said amount. He further assures that in addition the petitioner will go on depositing the compensation @ Rs.25,000/- per month from July, 2018 onwards in the Small Causes Court at Mumbai on or before 10th day of following month/s.

6. In view thereof, the impugned order is modified to the extent of substituting the amount of Rs.49,396/- per month by the amount of Rs.25,000/- per month. The petitioner shall deposit the arrears of compensation from 17.2.2017 till 30.6.2018 in two installments in the Small Causes Court at Mumbai, under intimation in writing to the learned Counsel for the respondents, in the following manner :

- [i] 50% of the arrears of compensation within four weeks from today; &
- [ii] the remaining amount of arrears within eight weeks from today.

7. It is made clear that if the petitioner does not deposit 50% of arrears of compensation within four weeks from today and remaining amount within eight weeks from today, the impugned order shall stand revived without further reference to the Court. In addition, the

petitioner will go on depositing the compensation @ Rs.25,000/- per month from July, 2018 on or before 10th day of following month/s under intimation in writing to the learned Counsel for the respondent.

8. Rule is made absolute in aforesaid terms with no order as to costs.

9. List the Petition for reporting compliance on 6.8.2018. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)