

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL REVISION APPLICATION (ST) NO.14121 OF 2018

Balvinder Singh Harbans Singh Sandhu & Anr.] Petitioners

Vs.

Krishnaro Laxman Mungi & Ors.] Respondents

.....

Mr. Aseem Naphade i/b Shyama P. Parkar for Applicants.
Mr. M.M. Sathye, for Respondent No.4.

.....

CORAM : R.G. KETKAR, J.

DATE : 4TH MAY, 2018.

P.C.

Heard Mr. Naphade, learned Counsel for the applicants and Mr. Sathye, learned Counsel for respondent No.4 at length.

2. By this Civil Revision Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C'), the applicants, hereinafter referred to as “defendants No.1 and 2” have challenged the judgment and order dated 27th April, 2018 passed by the learned 2nd Joint Civil Judge, Senior Division, Nasik below Exhibit 31 in Regular Darkhast No.112 of 2015. By that order, the learned trial Judge rejected the application made by the applicants/judgment debtors for staying execution proceedings as also staying order dated 23rd November, 2017 passed below Exhibit 19. By order dated 23rd November, 2017, the learned trial Judge issued possession warrant under Order-XXI, Rule-35 (3) of the C.P.C. The Bailiff was directed to remove the lock of the sheds in the presence of judgment debtor and Panchas and hand over the machinery, if

any, to the judgment debtor. If the judgment debtor will remain absent at the time of execution of the warrant despite notice, the Bailiff was directed to prepare inventory with probable value of the articles, if any, found in the sheds and hand over custody of the same to the Decree holder after taking a bond from him for keeping the articles in safe custody till further order of disposal and thereafter hand over possession of the suit property to the decree holder under Panchnama as per rules. The Bailiff was directed to submit the attested inventory along with his report. Police protection if needed was also granted.

3. Mr. Naphade states that Gawher Alam Shaikh, son and Constituted Attorney of petitioner No.2 is present in the Court. He has handed over photo copy of Power of Attorney executed by petitioner No.2 in his favour which is taken on record and marked 'A' for identification as also photo copy of Driving Licence which is taken on record and marked 'B' for identification.

4. Upon taking instructions from Mr. Gawher Alam Shaikh, Mr. Naphade states that petitioners/defendants No.1 and 2, judgment debtors will hand over vacant and peaceful possession of the suit premises by removing machinery and articles lying in the suit premises to respondent No.4 by 3.00 p.m on 5th May, 2018. Statement made by Mr. Naphade on instructions is recorded.

5. Mr. Sathye states that respondent No.4 Uday Mungi is present in the Court. He has tendered photo copy of his Driving Licence which is taken on record and marked 'C' for identification. Upon taking instructions from him, he states that upon receipt of vacant and peaceful possession of the suit premises, the landlords will neither create third party interests nor part with possession and will abide by the outcome of the proceedings pending in the Apex Court.

Statement made Mr. Sathye, on instructions is recorded.

6. In view thereof, nothing survives in the Application and the same is disposed of. List the matter for reporting compliance on Sunday, i.e on 6th May, 2018 at 11.00 a.m at my residence.

[R.G. KETKAR, J.]