

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2110 OF 2017
IN
WRIT PETITION NO.2442 OF 1994

Rani Sevakram (Since Deceased),
Through LRs :-
Purna @ Urvashi Suresh Jahangiani & Ors. Applicants
In the matter between
Rani Sevakram (Since Deceased),
Through LRs :-
Purna @ Urvashi Suresh Jahangiani & Ors. Petitioners
V/s.
The Oriental Insurance Co. Ltd. & Ors. Respondents

Mr. E.A. Sasi for the Applicants-Original Petitioners.

Mr. V.Y. Sanglikar for Respondent No.1.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 6TH FEBRUARY 2018.

P.C. :

1. Heard Mr. Sasi, learned counsel for the Applicants, who have filed this Civil Application, seeking following reliefs :-

“a(i) This Hon'ble Court may be pleased to issue appropriate order and direction to Respondent No.2 U.P. Handloom Corporation to forthwith remove the lock put by them viz. Lock-B and Lock-C, as shown in the sketch Exhibit-Q, in any event within a period of 3 days from the date of passing the order or within such reasonable time as this Hon'ble Court may deem fit;

a(ii) Or, in the alternative to prayer clause a(i) above, this Hon'ble Court may be pleased to permit the Applicants

to break open the locks put by Respondent No.2 viz. Lock-B and Lock-C, as shown in Sketch Exhibit-Q, after a period of 3 days from the date of the order, in case the locks are not removed by Respondent No.2;

a(iii) This Hon'ble Court may be further pleased to issue appropriate order directing Respondent No.2 to remove their articles and belongings, whatsoever, lying inside the premises being Shop No.8, situated on the Ground Floor of Indian Mercantile Mansion, Madam Cama Road, Opp. Regal Cinema, Mumbai - 400 005, within a period of 3 days from the date of the order or within such reasonable time, as the Hon'ble Court may deem fit and proper;

a(iv) Or, in the alternative to prayer clause a(iii) above, this Hon'ble Court may be pleased to permit the Applicants to prepare inventory of the articles and belongings of Respondent No.2, whatsoever, lying inside the premises being Shop No.8, situated on the Ground Floor of Indian Mercantile Mansion, Madam Cama Road, Opp. Regal Cinema, Mumbai - 400 005, and further appropriate order for its disposal, as may be deem fit and proper by this Hon'ble Court."

2. As pointed out by learned counsel for the Respondents, earlier also the Applicants have filed Civil Application No.865 of 2017, seeking following reliefs :-

“(a) This Hon'ble Court may be pleased to order and direct Respondent No.1 to restore the status-quo with regard to the tenancy right and possession of the Petitioners existed on the date of the Judgment dated

28.02.2017, to unseal the Locks on the front door shutter of the suit shop being Shop No.8, so as to enable the Petitioners and their customers to have free ingress and egress and to enable the Applicants to carry on their business till expiry of the period of eight weeks in terms of the said Judgment dated 28.02.2017 in Writ Petition No.2442 of 1994;

(b) This Hon'ble Court may be pleased to pass any such order and further appropriate orders and directions, as the nature and circumstances of the case may require to protect the tenancy right and possession in the interest of justice."

3. The reliefs sought in both the Civil Applications are, thus, more or less, similar and this Court has vide order dated 6th April 2017, dismissed the earlier Civil Application No.865 of 2017. Hence, this Court cannot again consider the same prayers on same cause of action.

4. It is also not disputed that the matter is subjudice before the Hon'ble Supreme Court in the Special Leave Petition preferred against the order passed by this Court in Writ Petition No.2442 of 1994. In such situation, when the Hon'ble Supreme Court is seized of the matter, it would not be proper on the part of this Court to pass any such order in the present Civil Application; especially when the Civil Application, seeking similar reliefs, to that effect is also dismissed by this Court.

5. Hence, this Civil Application stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]