

Mr. Onkar V. Warange for Petitioner.
Mr. A. V. Anturkar, Senior Advocate i/b. Mr. Amol Gatne for
Respondent No.2.

P.C. :

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 19.04.2018 passed by the learned Judge, Small Causes Court, Pune in Darkhast No.74 of 2017. By order dated 17.11.2003, the trial Court had decreed the Suit under Section 13(1)(hh) of the Bombay Rents, Hotel, Lodging and House Rates Control Act, 1947 (for short 'Act'). The judgment-debtors were directed to deliver possession of the suit premises to the decree-holder for erection of the suit premises. By order dated 30.04.2005, the learned District Judge dismissed the Civil Appeal. It is common ground between the parties that judgment debtor did not challenge that order and thus the eviction decree had attained finality.

3. Mr. Anturkar has tendered affidavit in reply dated 08.07.2018 of the respondent No.2- Abdul Rahim Mohammad Khan. In paragraph 9, it is stated that substantial construction of the suit property has been done and only plastering and flooring work remained to be completed. The

said work will be completed within a period of 6 to 9 months from the date of handing over possession by the petitioner-judgment-debtor. Respondent No.2 has filed further affidavit dated 10.07.2018 stating therein that respondent No.2 will handover possession of Workshop No.2 on the ground floor as shown in revised sanctioned plan dated 08.03.2016 within a period of 6 months from the date of the petitioner handing over the possession of the suit premises to the second respondent.

4. Mr. Warange submits that the statement made in paragraph 1 of the affidavit dated 10.07.2018 may be accepted in the form of undertaking. He assures that within 3 weeks from today, petitioner will handover vacant and peaceful possession of the suit premises to the second respondent. Mr. Anturkar assures that within 7 months from today, respondent No.2 will handover possession of Workshop No.2 on the ground floor as shown in revised sanctioned plan dated 08.03.2016. Statement made by Mr. Abdul Rahim Mohammad Khan-respondent No.2 herein, in paragraph 1 of the affidavit dated 10.07.2018 is accepted in the form of undertaking to this Court.

5. In view thereof, nothing survives in this Petition and the same is accordingly disposed of. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab