

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application NO. 309 OF 2017
IN
Civil Revision Application NO. 609 OF 2016

Vijay Mohan Pathare	...Applicant
<u>IN THE MATTER BETWEEN</u>	
Hirabai Jaywant Lolekar (since deceased)	
Through Lrs.	
1(a) Chandrakant H. Lolekar (since deceased)	
through L.Rs. And others.	..Applicants
Versus	
Mandakini wd/o. Mohan Pathare	
(deleted since deceased)	
and others.	..Respondents.

....

Dr. Pallavi Divekar i/b. M/s Divekar & Co. for the Applicant.
Mr. Prashant G. Karande, Advocate for Respondents No.1 to 9 & 11.

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CORAM : R. G. KETKAR, J.

DATE : 22nd JUNE, 2018

P.C.

1. Heard Dr. Pallavi Divekar, learned counsel for the applicant and Mr. Prashant Karande, learned Counsel for respondents No.1 to 9 and 11, at length.

2. By this application, the applicant has prayed for issuing direction to the respondents to deposit the rent, cess, property taxes pertaining to the suit property from 1.4.1977 onwards till 31.8.2017

and further to direct the respondents to deposit rent at the market rate prevailing from 1.9.2017 till such time that main C.R.A. is disposed of finally.

3. Mr. Karande submitted that the respondents had handed over Pay Order dated 1.3.1988 in the sum of Rs.14,028/- to the applicant for the period covering from 1.4.1977 to 9.3.1988 and said Pay Order is not encashed. At the same time, original Pay Order is also not returned to the respondents. Dr. Divekar submits that the original Pay Order is misplaced. The learned Counsel for the parties assure that they will approach the Bank of Maharashtra, Tardeo Branch and will comply the formalities by extending cooperation to each other so as to enable the Bank to issue Pay Order in the sum of Rs.14,028/-.

4. Mr. Karande further states that as per order dated 11.11.1994 the respondents have deposited an amount of Rs.12,672/- covering the period from 1987 till 1997. He further states that as per order passed in Interim Notice No.1409/2003 in RAE Suit NO.626/1991/1987, the respondents have deposited an amount of Rs.13979.88 covering the period from September, 2004 to August, 2005. Mr. Karande, on instructions, states that the respondents have no objection for the applicants withdrawing said amount from the Small Causes Court.

5. Mr. Karande further states that the respondents had handed over Pay Order dated 24.7.2015 in the sum of Rs.14,652/- covering the period from April, 2003 to July, 2015 as also cross-cheque dated 27.6.2017 in the sum of Rs.2,475/- covering the period from August, 2015 to August, 2017, however, the applicants have not encashed those instruments. Dr. Divekar assures that within one week from today she will hand over those instruments to Mr. Karande. Mr. Karande assures that within two weeks from receipt of the original instruments, the respondents will hand over fresh Pay Order to the applicants.

6. Mr. Karande further states that he has deposited property taxes along with interest with the Corporation and assures that in case there is any deficit, the respondents will deposit the same with the applicants and will give inspection of the receipts to the learned Counsel for the applicant. As far as water charges are concerned, the respondents have taken independent connection and are directly paying water charges to the Corporation.

7. After hearing the learned Counsel for the parties and after considering valuation report relied upon by the parties as also condition of the suit premises and location of the suit premises, during the course of hearing, I suggested that the Court is inclined to fix interim

compensation @ Rs.35,000/- per month. In due deference to the suggestion made by the Court, the learned Counsel for the parties have accepted the suggestion given by the Court. Mr. Karande states that within ten weeks from today, the respondents will deposit the arrears @ Rs.35,000/- per month from July, 2017 till 30.6.2018 in this Court, under intimation in writing to the learned Counsel for the applicants, in the following manner :

- i) 50% of arrears within five weeks from today; and
- ii) remaining 50% of the arrears within ten weeks from today.

8. Mr. Karande further assures that the monthly compensation from July, 2018 onwards will be deposited in this Court on or before 10th day of following month. After depositing the compensation amount, the Registry shall invest the amount in Fixed Deposit of any Nationalized Bank and shall renew the same during pendency of C.R.A. The applicant is permitted to withdraw the amount deposited by the respondents in the Small Causes Court unconditionally.

9. Civil Application is disposed of in aforesaid terms with no order as to costs. List the matter for reporting compliance on **3.8.2018**.

10. All concerned parties, including the Small Causes Court, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)