

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 8056 OF 2018

Mrs. Aajul Abubakar Abdul Raut Khan & Ors. ... Petitioners
Vs.
Mumtaz Khan Khudabaksh of Surat & Ors. ... Respondents

Mr. A.G. Damle, Senior Advocate a/w. Mr. Abhishek Yende i/b. Mr. Mohd. Y. Khan, for the petitioners.
Mr. S.A. Jabbar i/b. Tanisa Shaikh, Advocate for respondent no. 1.
Mr. A.R. Metkari, AGP for respondent no. 3.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **26th July, 2018.**

P.C.:

Upon mentioning, taken on production board.

2. The learned senior counsel Mr. Damle for the petitioners submitted that the petitioners are in receipt of the notice from the Court Receiver that the office of the Court Receiver is to proceed at suit Flat No. 1 on 1st floor for the purpose of taking physical possession of the suit premises and to keep it under lock and key. The learned senior counsel submitted the Court Receiver has taken this action pursuant to the order passed by the trial Court in respect of payment of royalty and the petitioners are defaulters. He submitted that the petitioners are ready to deposit the said arrears. He submitted that the petitioners are ready to deposit Rs. 5,00,000/-

on 31st July, 2018 in the office of Court Receiver and thereafter they will deposit further Rs.5,00,000/- on 16th August, 2018. Thus, the petitioners will clear the arrears of Rs.10,00,000/- as claimed by the Court Receiver.

3. The learned counsel for respondent no. 1 opposed this Petition and submitted that whatever arrears are due, that is to be paid by the petitioners.

4. The submissions made by the learned senior counsel for the petitioners are accepted, however, it is made clear that the due amount which is claimed by the Court Receiver is to be deposited. If the amount of arrears is in excess of Rs.10,00,000/-, then that is to be paid on or before 31st August, 2018. If the amount is less than Rs.10,00,000/-, then the excess amount deposited will be adjusted in further payment.

5. If the petitioners fail to deposit the first instalment of Rs.5,00,000/- on 31st July, 2018 on or before 3 p.m., the Court Receiver to proceed to take possession of the suit premises on 1st August, 2018 as per the notice.

6. Writ Petition is disposed of.
7. The Court Receiver to act upon the authenticated copy of this order.

(MRIDULA BHATKAR, J.)

Vidya
Suresh
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by Vidya
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