

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 445 OF 2015
IN
CIVIL REVISION APPLICATION NO. 590 OF 2009

Shardadevi Suraj Prakash Jalan .. Applicant
In the matter between
Shardadevi Suraj Prakash Jalan and ors. .. Applicants
vs.
Rajini L. Daswani and ors. .. Respondents

Mr. Jasbir S. Saluja a/w. Ms Asfiya Cutchi I/b K.K. Associates for the Applicant.

CORAM : M. S. SONAK, J.
DATE : 28 NOVEMBER 2018.

P.C. :-

1] Heard Mr. Saluja, the learned counsel for the applicant.

2] This Civil Application seeks the following reliefs:

“a) Pending hearing and final disposal of the CRA continue the interim reliefs granted by this Hon'ble Court vide orders dated 15th October 2009 and 26th August 2010, till final disposal of the CRA;

b) Pending hearing and final disposal of the CRA this Hon'ble Court be pleased to clarify that the stay granted by this Court was not vacated as per order dated 9th April 2013;

c) Pending hearing and final disposal this Hon'ble Court be pleased to restrain the Respondent from disposing the Applicant from the Suit premises;

d) Ad interim in terms of prayer (a) to (c);

e) Cost

f) Such other and further reliefs as this Court deems fit.”

3] By order dated 26th August 2010, the applicants were granted interim relief and the eviction decree against them was stayed

subject to they paying to the respondents reasonable compensation at the rate of Rs.1,50,000/- per month from 23rd September 2005 till disposal of the revision application.

4] Admittedly, there are defaults in the payments of this amount. Mr. Saluja admits that from March 2018 onwards, the applicants are in arrears.

5] Mr. Saluja points out that the respondents have taken out an execution proceedings and therefore, this Civil Application is filed seeking for leave to pay the arrears and to restore the interim reliefs granted earlier.

6] Mr. Saluja submits that this is on account of weakened financial position as well as the health issue which afflict the applicant and that the compensation amount could not be paid regularly.

7] From the chart set out in the Civil Application itself, it is clear that even the payments made in the past had been made after stipulated date. Most of the payments have been accepted without

prejudice. Some of the payments, it appears, have not been accepted.

8] This is really not a case where the applicant deserves any indulgence. However, since Mr. Saluja states that the arrears are due only from March 2018 and the arrears prior to the said date had been positively cleared, yet another opportunity is granted to the applicant. This shall however be subject to payment of costs.

9] Accordingly, leave is granted to the applicant to clear the arrears from March 2018 upto December 2018 within a period of two weeks from today. Since Mr. Saluja states that the respondents are not accepting the cheques, leave is granted to deposit the entire amount of arrears in this Court within a period of four weeks from today with notice to the respondents. Once the amounts are deposited, the respondents shall be at liberty to withdraw the same unconditionally since, the earlier order dated 26th August 2010 had directed the applicants to make the payments directly to the respondents.

10] Further, the applicant for availing aforesaid indulgence is directed to deposit in this Court an additional amount of Rs.50,000/- by way of costs. This costs are imposed because otherwise the interim relief stands vacated. It is only when the respondents moved for execution that an offer is made to clear the arrears. If arrears/costs are not paid /deposited within four weeks from today, the stay on eviction shall stand vacated without any further reference to this Court. If the amounts are deposited/paid, the stay on the eviction shall revive. Between today and 26th December 2018 there shall be ad-interim stay on the execution of the eviction order.

11] Civil Application is disposed of.

12] Mr. Saluja makes a statement that the applicant is still in a possession of a suit premises and the execution is not completed.

(M. S. SONAK, J.)