

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 11092 OF 2018

Deepali Sheth alias Dipali Sarvaiya
Sheth

...Petitioner

Versus

Intelfox India Ltd.
and another.

...Respondents

....

Mr.Ankit Lohia, Hasmit Trivedi a/w. Kalpesh Mehta & Mansi Shah i/b.
M/s. Pravin Mehta and Mithi & Co. for the Petitioner.
Mr. Sangharsh Waghmare i/b. Ravi Kadam, Advocate for Respondent
No.1.

....

CORAM : R. G. KETKAR, J.

DATE : 12th OCTOBER, 2018

P.C.

1. Heard Mr.Ankit Lohia, learned counsel for the petitioner and Mr.Sangharsh Waghmare, learned counsel for respondent No.1, at length.
2. This Petition takes exception to the order dated 21.8.2018 passed by the learned trial Judge. By that order, the learned trial Judge issued notice as per Order XXI Rule 22 of Code of Civil Procedure, 1908 (for short, 'C.P.C.')
3. The matter was heard on 3.10.2018. At the request of Mr.Waghmare the matter was adjourned to 10.10.2018 so as to enable him to make statement as to whether the respondents are willing to

comply the order dated 9.4.2018 passed by the learned trial Judge below Exhibit-22 in L.E. & C. Suit No.159/2017 by paying the amount of Rs.4,98,000/- towards the arrears of licence fees from September, 2017 till 30.4.2018.

4. The matter was thereafter heard on 10.10.2018 and at the request of Mr. Waghmare was adjourned till today so as to enable him to take written instructions as to within what time the respondents will hand over possession of the suit premises to the petitioner.

5. In pursuance thereof, Mr. Waghmare has filed affidavit dated 11.10.2018 of Mahesh Amrut Parab, authorized director of respondent No.1 enclosing therewith written instructions. Said affidavit dated 11.10.2018 along with written instructions is taken on record and marked 'A' for identification. In the affidavit it is stated that respondent No.1 is ready and willing to hand over vacant and peaceful possession of the suit premises to the petitioner on or before 31.10.2018. It is further submitted that respondent No.1 will comply the order dated 9.4.2018 by paying the arrears of licence fees of Rs.4,98,000/- from September, 2017 till 30.4.2018 on or before 12.1.2019 i.e. within three months from today. The statements made in paragraphs-3 and 4 of the affidavit are accepted in the form of undertakings to this Court.

6. Respondent No.1 shall hand over possession of the suit

premises to the petitioner on or before 31.10.2018. Respondent No.1 shall pay the licence fees of Rs.4,98,000/-, subject to payment of differential amount, within three months from today. Mr.Waghmare submitted that respondent No.1 has paid Rs.3,60,000/- towards the security deposit to the petitioner. It is common ground between the parties that monthly licence fee is Rs.64,500/-. Respondent No.1 is, therefore, liable to pay licence fee from 1.5.2018 till handing over possession of the suit premises to the petitioner @ Rs.64,500/- per month. The same shall be adjusted towards the security deposit. It is common ground between the parties that respondent No.1 has deducted TDS from the petitioner.

7. Mr. Waghmare states that Mahesh Amrut Parab, Authorized Director of respondent No.1 is present in the Court today. He has tendered a photo-copy of his Aadhaar card, which is taken on record and marked 'B' for identification. Upon taking instructions from him, Mr. Waghmare states that respondent No.1 will deposit the TDS along with interest if any with Income Tax Office on or before 31.10.2018.

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

(R. G. KETKAR, J.)