

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13295 OF 2018

Shri Shivmoorat Jagatdev Kushwaha ... Petitioner

v/s

Shri Assistant Division Engineer, Central
Railways and ors. ... Respondents

Ms Sbneha Phene with Ms Ayesha Keshodwala I/b M/s K.V. Legal for Petitioner.
Mr R.P. Ojha for Respondent Nos.1 and 2.
Mr Vinod Gajangi for Respondent No.3.

CORAM : B.P. COLABAWALLA, J.

DATE : 10th DECEMBER, 2018

P.C.:

1. This Writ Petition challenges the order passed by the Principal Judge, Bombay City Civil Court dated 17th September 2018. Originally, eviction proceedings were initiated by the Respondent No.1 against the Petitioner as well as Respondent No.3. These eviction proceedings ultimately culminated in an order passed by the Estate Officer who inter alia ordered the eviction of the Petitioner and Respondent No.3 as well as for payment of compensation in the amount of Rs.1.25 crores.

2. Being aggrieved by the order of the Estate Officer, an Appeal was filed before the Principal Judge, Bombay City Civil Court. In that Appeal, an application for stay was filed, being Exh.2. The Principal Judge, Bombay City Civil Court passed an order staying the operation of eviction order subject to a deposit of Rs.10/- lakhs by the Petitioner on or before 31st October 2018 and thereafter Rs.10/- lakhs on or before 30th November 2018.

3. As far as the first installment of Rs.10/- lakhs is concerned, it is not in dispute that the same has already been deposited in time. As far as the second installment of Rs.10/- lakhs is concerned, the same has not been deposited as on date and the Principal Judge, Bombay City Civil Court has extended the time to deposit this amount till tomorrow i.e. 12th December 2018.

4. In this Writ Petition, after hearing the learned counsel for the Petitioner for some time, she has submitted that her client, without prejudice to his rights and contentions, is willing to deposit the balance amount of Rs.10/- lakhs and seeks an extension of time till 15th January 2019 for doing so.

5. I think that this request is a reasonable one. It is therefore ordered that the Petitioner shall deposit the balance amount of Rs.10/- lakhs before the Principal Judge, Bombay City Civil Court on or before 15th January 2019. It is

made clear that if the aforesaid deposit is not made within the stipulated period, then the stay granted by the Principal Judge, Bombay City civil Court shall stand automatically vacated without any further reference to the Court. It is clarified that all contentions of the Petitioner are expressly kept open to be agitated at the hearing and final disposal of the appeal filed by the Petitioner and the Petitioner has not given up any contention by agreeing to deposit the amount as mentioned in the impugned order.

6. Writ Petition is accordingly dispose of. There shall be no order as to costs.

(B. P. COLABAWALLA, J.)