

Jashodaben Kantilal Patel & Ors.] Petitioners

Vs.

Brihan Mumbai Electricity Supply and Transport Committee & Anr.] Respondents

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Mr. Mayur Khandeparkar a/w Mr. Ativ Patel i/b AVP Partners, for petitioners.
Mr. G.S. Godbole, Sr. Advocate a/w Assen Naphade & Ashwin Ankhad &
Associates, for respondent No.1.

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CORAM : R.G. KETKAR, J.

DATE : 12TH APRIL, 2018.

P.C.

Heard Mr. Khandeparkar, learned Counsel for the petitioners and Mr. Godbole, learned Senior Counsel for respondent No.1 at length.

2. Perused the orders passed by this Court from time to time. In paragraph 6 of the order dated 30th November, 2017, respondent No.1 was asked to decide whether it wishes to continue to occupy this land. If it does, the petitioners have placed three different options and respondent No.1 to indicate which of these options it prefers.

3. The matter was thereafter heard on 5th December, 2017, wherein reference was made to resolution dated 4th December, 2017 passed by the Committee of respondent No.1 resolving that respondent No.1 is not agreeable to any of the three suggestions placed by the petitioners for a negotiated

renewal of the lease. After hearing the parties, this Court gave respondent No.1 time till 6th February, 2018 to vacate the premises in question.

4. Respondent No.1 filed Special Leave Petition (S.L.P) before the Apex Court challenging the orders dated 30th November, 2017, 5th December, 2017 and 7th December, 2017. S.L.P was disposed of on 12th February, 2018 after recording statement of Mr. R.J. Singh, Deputy General Manager of respondent No.1 that respondent No.1 will hand over vacant and peaceful possession of the suit premises to the petitioners herein on or before 5.00 p.m on 28th February, 2018. The matter was thereafter heard before the learned Single Judge on 1st March, 2018 when it was confirmed that possession of plot was delivered by respondent No.1 to the petitioners on 28th February, 2018 and was ordered to be listed for reporting compliance on 1st March, 2018. The learned Single Judge directed the Registry to place the matter before the appropriate Court for passing further orders including as to the question of mesne profits.

5. Mr. Khandeparkar invited my attention to the suit instituted by the petitioners. He submitted that prayers at clauses (a) and (b) are worked out as respondent No.1 has handed over possession. He submitted that the learned trial Judge be directed to hold inquiry as to mesne profits in terms of prayer clause (c).

6. Mr. Godbole submits that respondent No.1 will file reply opposing prayer clause (c) in the trial Court and all contentions may be kept open.

7. As respondent No.1 has handed over possession to the petitioners on 28th February, 2018, prayer clauses (a) and (b) are worked out. The trial Court will now to conduct inquiry as to mense profit in terms of Order-XX,

Rule-12 of the C.P.C. All contentions of the parties are expressly kept open.
Petition is disposed of in the aforesaid terms.

[R.G. KETKAR, J.]