

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 4020 OF 2017

Yashodhan Ramakant Anjaria
And Ors.

...Petitioners

Versus

Smt. Ela Wd/o Suresh Joshi

...Respondent

....

Mr. Prem S. Gidwani, Advocate for the Petitioners.

Mr. Suresh M. Sabrad, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 9th OCTOBER, 2018

P.C.

1. Heard Mr.Prem Gidwani, learned counsel for the petitioners and Mr.Suresh Sabrad, learned counsel for the respondent, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as the 'defendants', have challenged the order dated 30.9.2016 passed by the Appellate Bench of the Small Causes Court at Bombay (Bandra Branch) below Exhibit-6 in Appeal No.1/2015. By that order, the Appellate Court allowed the application Exhibit-6 made by the defendants and stayed the eviction decree dated 14.10.2014 passed by the learned trial Judge in R.A.E. & R. Suit No.272/635 of 2001, subject to imposing following conditions :

- “(i) The appellants (petitioners herein) shall deposit the monthly compensation in respect of the suit premises at the rate of Rs.15,000/- (Rs. Fifteen Thousand Only) from the date of decree i.e. 14.10.2014 upto 31.8.2016 within three months from the date of this order in the Court.
- (ii) The appellants (petitioners herein) shall continue to deposit the compensation in respect of the suit premises at the rate of Rs.15,000/- (Rs. Fifteen Thousand Only) per month w.e.f. 1.9.2016 and onwards till disposal of the appeal on or before 10th day of each succeeding month in the Court.
- (iii) The Addl. Registrar, Small Causes Court, Bandra Branch, Mumbai is directed to invest the amount of compensation as and when deposited by the appellants (petitioners herein) in the fixed deposit for the term of at least one year in the nationalized bank on the very next working day in accordance with the law and as per the Rule.
- (iv) If the appellants (petitioners herein) failed to comply with the order, the stay granted by the Court shall automatically stand vacated.”

3. Rule. Mr.Sabrad waives service. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

4. Mr. Sabrad invited my attention to the order dated 20.12.2016 passed by this Court. By that order, without prejudice to the rights and contentions of the respondent, the petitioners were

directed to deposit compensation @ Rs.5,000/- per month. Mr. Sabrad states that Mr. Anand Suresh Joshi, son of the respondent is present in the Court and he has authority to make statement on behalf of the respondent. Mr. Sabrad has tendered a photo-copy of his Driving Licence, which is taken on record and marked 'A' for identification. Upon taking instructions from him, Mr. Sabrad submitted that the impugned order may be modified by substituting the figure of Rs.15,000/- by figure of Rs.5,000/-. He further submitted that as the parties are senior citizens and one of the grounds invoked for eviction is bonafide and reasonable requirement in terms of Section 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short, 'Act'), the Appellate Court may be directed to dispose of the appeal in a time bound manner.

5. In view thereof, by consent of the parties, the petition is disposed of in following terms:

- [i] The impugned order dated 30.9.2016 is modified and in the place of direction to the petitioners to deposit Rs.15,000/- per month, the petitioners shall deposit monthly compensation @ Rs.5,000/- per month.
- [ii] Clauses (i) & (ii) of the impugned order stand substituted accordingly.
- [iii] A perusal of the cause title of the petition shows that petitioner

No.1 is 64 years old, petitioner No.2 is 84 years old and the respondent is 82 years old. The learned Counsel for the parties submit that the next date of hearing of the appeal is 26.10.2018. In view thereof as also having regard to the fact that the respondent has invoked the ground under Section 16(1)(g) of the Act, the Appellate Court is requested to dispose of the appeal as expeditiously as possible and within six months from the next date of hearing i.e. from 26.10.2018.

- [iv] Both the parties shall cooperate for disposal of the appeal in a time bound manner.
- [v] Rule is made absolute in aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)

Pradipkumar
Prakashrao
Deshmane

Digitally signed
by Pradipkumar
Prakashrao
Deshmane
Date: 2018.10.10
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