

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (ST) NO. 32089 OF 2018
IN
WRIT PETITION NO. 9682 OF 2018

Niyaz A. Shaikh

..... Petitioner

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr.Sachin B. Chandan earlier advocate for the Applicant/Original Petitioner present.

Mr.R.P.Kadam, A.G.P. for the Respondent nos. 1 and 3.

Mr.Niyaz A. Shaikh, Petitioner no.1 along with Mrs.Salma Shaikh, wife of the Petitioner present in court.

Smt.Noor-Ul-Huda Asgar Ali Shaikh, Respondent no.2 present in person.

CORAM : R.D. DHANUKA, J.

DATE : 26th NOVEMBER, 2018

P.C.

Delay if any in filing review petition is condoned.

2. Heard petitioner and his wife in this review petition and also the learned A.G.P. for respondent nos. 1 and 3. The respondent no.2 is also present in court.

3. By this review petition, the petitioner seeks recall of the orders dated 6th August,2018 and 8th August,2018 passed by this court in Civil Writ Petition (L) No.22222 of 2018.

4. The writ petition was filed by the petitioner inter alia praying for quashing and setting aside the order dated 5th July, 2018 passed by the learned Deputy Collector (Parents & Senior Citizen Maintenance & Welfare) directing the petitioner to vacate the suit premises admittedly owned by the respondent no.2.

5. The writ petition was argued at length by the learned counsel appearing for the petitioner on 6th August, 2018. After obtaining instructions from the petitioner and his wife who was present in court, learned counsel appearing for the petitioner undertook to file undertaking by 8th August, 2018 to the effect that the petitioner and his wife shall handover the property in question to the respondent no.2 within three months from the date of the said order and would also pay Rs.1,000/- per month to the respondent no.2 without fail during this period of three months commencing from 10th August, 2018, second installment on 10th September, 2018 and the third installment on 10th October, 2018. This court accepted the said undertaking.

6. On 8th August, 2018, this court accepted the undertaking dated 8th August, 2018 filed by the petitioner and his wife on record. It was made clear that if any of the terms of the said undertaking were not complied with by the petitioner or his family members, the consequences provided in the order dated 6th August, 2018 would be enforceable and each of the occupant would be dispossessed with the help of local police station and shall handover peaceful vacant possession thereof to the respondent no.2.

7. In paragraph (3) of the said order dated 8th August,2018, this court recorded that the petitioner no.1 and his wife who were present in court agree that they have been explained the terms of the undertaking explained them in Hindi by the learned counsel appearing for them.

8. The review petition has been filed by the petitioner on the ground that they have not understood what undertaking they have filed before this court and the orders passed by this court are harsh. It is alleged that the review petitioner was informed by the learned advocate who was representing him that the review petitioner would be able to reside in the said premises as long as civil writ petition was decided and under that impression, the petitioner filed affidavit cum undertaking on 8th August,2018.

9. A perusal of the grounds raised in the review petition clearly indicates that each and every ground raised is totally false and misleading. This court had confirmed from the petitioner and his wife before passing the order dated 8th August,2018 that the petitioner and his wife had agreed that they had been explained the undertakings rendered by them in Hindi by the learned counsel appearing for them. However, after expiry of three months, this frivolous review petition has been filed by the petitioner. There is no error apparent on the record.

10. I am thus not inclined to recall the orders dated 6th August,2018 and 8th August,2018 passed by this court in Civil Writ Petition (L) No.22222 of 2018. The allegations made by the petitioner against the

learned advocate who had appeared for the petitioner before this court are also *ex-facie* false and misleading. Review petition is accordingly dismissed.

11. The concerned police station shall implement the orders passed by this court on 6th August,2018 and 8th August,2018 on or before 7th December,2018 and shall handover possession thereof to the respondent no.2 immediately.

12. The petitioner is also directed to pay one of the installment of Rs.1,000/- to the respondent no.2 which has not been paid till date on or before 30th November,2018.

13. The parties as well as the concerned police station to act on the authenticated copy of this order.

14. The learned A.G.P. is directed to convey this order to the concerned police station for compliance.

15. There shall be no order as to costs.

[R.D. DHANUKA, J.]