

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO.1066 OF 2016

IN

SUIT NO.2087 OF 2012

Sunderlal Sitaram Nirban
And Smt. Anitadevi Sunderlal Nirban ... Applicants

In the matter of

Rashtriya Bhim Sena
through its President Mr. Ravi
Rajan Pandayan ... Plaintiff

Versus

Mr. Sunderlal Sitaram Nirban
And Another ... Defendants

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Mr. Rakesh K. Agrawal for the Applicants/Defendants.
Mr. Deepak Kushwaha for the Respondent/Plaintiff.

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CORAM : S.C.GUPTE, J.

DATE : 17 OCTOBER 2018

P.C. :

. The present Notice of Motion is taken out by the Defendants seeking a direction for withdrawal of Rs.8 lacs deposited by them in this court along with accrued interest, if any. The amount was deposited in pursuance of an order passed by this court in an earlier notice of motion in the suit, namely, Notice of Motion No.64 of 2014. The refund of this amount is sought in part satisfaction of a decree of eviction and payment of dues passed against one Ravi Rajan Pandayan, who has filed the present

suit in his capacity of the President of an entity called Rastriya Bhim Sena. The order is sought in pursuance of an execution order passed by the competent authority under the Maharashtra Rent Control Act, 1999 in pursuance of the decree.

2 The Defendants claim to have entered into 'leave and licence' agreement with Ravi Rajan Pandayan, allowing the latter to use the suit property. The agreement provided for payment of a security deposit and monthly licence fees towards use of the property. Sometime later, this leave and licence agreement was terminated by the Defendants and eviction proceedings were initiated under Section 24 of the Maharashtra Rent Control Act, 1999 against Ravi Rajan Pandayan. The competent authority, by its order dated 30 July 2012, was pleased to order eviction. The competent authority rejected the case of Ravi Rajan Pandayan that he had agreed to purchase the suit property and paid a part consideration for the same and was in possession of the suit property in part performance. The order of the competent authority was challenged by Ravi Rajan Pandayan before the revisional authority under the Maharashtra Rent Control Act, 1999. The revision was dismissed by the authority. In the meanwhile, the present suit was filed by Ravi Rajan Pandayan as President of Rashtriya Bhim Sena, which is said to be a political party. A *status quo* order was passed in the suit with a clarification that the eviction proceedings then pending before the revisional authority would proceed independently and would not be prejudiced by the *status quo* order. Sometime during the pendency of the suit before this court and the revision before the authority, the Defendants noticed that a sum of Rs.5 lacs had been deposited unauthorisedly in their bank account. The

Defendants offered to deposit this amount in court which was permitted by this court. The revisional authority, whilst dismissing the revision application, directed that execution of the order of eviction shall be subject to such order as may be passed in the present suit. Ravi Rajan Pandayan thereafter proceeded to file a writ petition before this court (Writ Petition No.13 of 2014), challenging the revisional order passed under the Maharashtra Rent Control Act, 1999. The petition was dismissed by this court. An SLP preferred from that order was dismissed by the Supreme Court. A review petition challenging that dismissal order was also rejected by the Supreme Court. The last of these orders was passed on 25 September 2014. The Defendants, thereafter, took out a notice of motion, being Notice of Motion No.64 of 2014 in the present suit, for recall of the *status quo* order passed on the earlier notice of motion on 21 October 2013. By an order dated 20 August 2014, the *status quo* order was vacated and recalled. Since, in the meanwhile, an amount of Rs.8 lacs deposited by Ravi Rajan Pandayan in the eviction proceedings was withdrawn by the Defendants, the Defendants offered to bring back the amount in court, subject to liberty to the Defendants to claim the same later in execution. The statement of the Defendants to that effect was accepted by the court. The Defendants were permitted to bring back the amount of Rs.8 lacs in court within eight weeks. It was directed that this amount would abide by such order as may be passed by this court in the present case. The amount of Rs.8 lacs was accordingly deposited by the Defendants in this court. The Plaintiff's appeal from order of 20 August 2014, recalling the earlier *status quo* order, was later unconditionally withdrawn by the Plaintiff herein. The Defendants, thereafter, applied for execution of the decree of eviction and compensation passed under Section 24 of the Maharashtra Rent Control

Act, 1999 by the competent authority. Forcible possession of the suit property was taken by the competent authority from Ravi Rajan Pandayan in those execution proceedings. Ravi Rajan Pandayan, however, was alleged to have left statues of Lord Buddha and Dr. Babasaheb Ambedkar in the compound of the suit property. The Defendants, in the premises, refused to take possession of the suit property and instead filed a writ petition before this court seeking a writ of mandamus against the competent authority. This court, by its order dated 8 April 2015, directed the competent authority to remove the statues from the suit property. On 16 April 2015, the competent authority removed the statues and handed over vacant possession of the entire suit property to the Defendants. Since the decree of eviction and compensation was thus partly implemented by the competent authority by eviction of Ravi Rajan Pandayan and handing over possession of the suit property to the Defendants, leaving the decree of compensation to be executed, the Defendants took out another notice of motion, being Notice of Motion No.931 of 2015, seeking appropriate directions in this behalf to the competent authority. This court, by its order dated 11 January 2016, directed the competent authority to dispose of the execution application expeditiously, granting liberty to the Defendants to apply. Finally, by its order dated 15 February 2016, the competent authority disposed of the execution application directing Ravi Rajan Pandayan to pay a sum of Rs.32,18,322/- being compensation/damages for the period from 15 December 2011 to 12 January 2015 and also granting liberty to the Defendants to appropriate the security deposit towards such compensation/damages. The competent authority also held that the Defendants were entitled to receive back Rs.8 lacs deposited by them in this court with accrued interest, if any. In the premises, the

Defendants now seek liberty to withdraw that amount of Rs.8 lacs together with accrued interest.

3 The application is opposed by the Plaintiff herein, that is to say, by Rashtriya Bhim Sena, through its President Ravi Rajan Pandayan. Learned Counsel for the Plaintiff submits that the present suit is still pending with no conclusion of the lis and as a result, the amount ought to be kept deposited in this court. Learned Counsel submits that besides, the present suit is as between Rashtriya Bhim Sena through its President Ravi Rajan Pandayan and the Defendants and not between Ravi Rajan Pandayan as an individual and the Defendants.

4 There is no merit in either of the contentions. In the first place, this court itself had made it clear when the order directing the Defendants to deposit Rs.8 lacs was passed that this amount would abide by such orders as may be passed in the suit or, as the case may be, in the execution proceedings in respect of the orders passed in the eviction proceedings under the provisions of the Maharashtra Rent Control Act, 1999. The eviction proceedings have now come to a final conclusion and the competent authority has even directed execution in respect of the decree of compensation/damages of Rs.32,18,322/- against Ravi Rajan Pandayan. The amount of Rs.8 lacs was deposited by Ravi Rajan Pandayan in this court in pursuance of his defence to the eviction proceedings. In the premises, now that there is a final decree of eviction and compensation/damages passed by the competent authority, sustained throughout till the final order of the Supreme Court in the review petition and execution of the monetary part of the decree has been ordered by the

executing court, unequivocally holding the Defendants to be entitled to the sum of Rs.8 lacs deposited by them in this court, towards satisfaction of the money decree, there is no reason why the amount should be kept lying in this court and not refunded to the Defendants. At the most, an undertaking may be obtained from the Defendants to bring back this amount in court, in case orders were to be passed in the present suit in favour of the Plaintiff at a later date. The Defendants are willing to give such undertaking.

5 In the premises, the Notice of Motion is disposed of by directing the Prothonotary and Senior Master of this court to refund the amount of Rs.8 lacs deposited by the Plaintiff in this Court and invested in accordance with the orders passed by this court to the Defendants along with accrued interest. The Defendants undertake to the court to bring back this amount in court, in the event any order to that effect is passed in the present suit. The undertaking is accepted. Costs to be costs in the cause.

(S.C. GUPTE, J.)