

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAW) NO.3253 OF 2018

IN

WRIT PETITION NO.8332 OF 2018

(ANIL BHAURAO KAMBLE & OTH...VS.. MAHARASHTRA TOURISM DEVELOPMENT CORPORATION
LTD. & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S.Sahare, Advocate for Petitioners.
Shri A.C.Dharmadhikari, Advocate for Respondent No.1.

CORAM : Z.A.HAQ, J.

DATED : DECEMBER 22, 2018.

Interim order is passed on 7th December 2018 protecting the possession of the petitioner over the suit property, however on condition that the petitioners jointly deposit Rs.Five Lakhs with the Registry of this Court. Accordingly, the petitioners have deposited the amount of Rs.Five Lakhs. Now, this civil application is filed by the respondent No.1/ decree holder stating that on 7th December 2018 the advocate representing it had put in appearance on caveat and he was not aware about the amount recoverable from the respondent No.2.

According to the respondent No.1, the petitioners have got possession of the suit property through the respondent No.2. It is pointed out that the amount of Rs.1,68,28,037/- is recoverable from the respondent No.2 till date. It is prayed that the interim order granted on 7th December 2018 be modified.

The learned advocate for the respondent No.1 has further pointed out the order passed by this Court in Writ Petition No. 8623 of 2018 on 19th December 2018. In Writ Petition No.8621 of 2018 (filed by two persons), after considering the submission made on behalf of the respondent No.1 that an amount of Rs.1,68,000/- is to be recovered from the respondent No.2, this Court directed that the possession of the petitioners in that writ petition would stand protected if the petitioners in that writ petition (two in number) deposit Rs.Six Lakhs with the Registry of this Court.

The learned advocate appearing for the petitioners has disputed the amount. It is further submitted that the petitioners are carrying on small businesses and if their possession is not protected they will be deprived of their livelihood.

Considering the facts of the case, the interim order granted on 7th December 2018 is modified in the following terms :

- i) In addition to the amount of Rs.Five Lakhs deposited by the petitioners, they should deposit an amount of Rs.Eighty Two Lakhs jointly with the Registry of this Court till 15th January 2019.
- ii) If the petitioners fail to deposit the amount of Rs.Eighty Two Lakhs with the Registry of this Court till 15th January 2019, the interim order shall cease to operate from 16th January 2019 and the respondent No.1 will be at liberty to proceed

with the execution. It is clarified that the amount is not required to be deposited by the petitioner individually and the deposit has to be of the entire amount, as directed, jointly.

- iii) The amount, which is deposited and which would be deposited, shall not be given to the respondent No.1 without any orders of this Court.

The civil application is **allowed** in the above terms. No costs.

JUDGE

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