

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2500 OF 2019

Harish Chunilal Uppal	...	Petitioner
Vs.		
Chunilal Maniram Uppal and another	...	Respondents

Mr. Bipin Joshi a/w. Mr. Prayag Joshi and Mr. Sahil Ansari for
Petitioner.

Mr. Prasad Pathare i/b. Mr. Rajesh Bindra for Respondents.

CORAM : R. G. KETKAR, J.

DATE : MARCH 1, 2019

P.C. :

Not on Board. At the request of Mr. Joshi, taken up for admission.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 22.01.2019 passed by the learned Appellate Bench of the Small Causes Court below exhibit-7 in Appeal No.243 of 2018. By that order, the Appellate Court allowed the application exhibit-7 and stayed eviction decree dated 05.05.2018 passed by the learned trial Judge in L.E.Suit No.130/161 of 2013 subject to - (i) the petitioner / appellant / defendant depositing the amount of compensation @ Rs.30,000/- per month from the date of the decree till December 2018, within 3 months and (ii) the petitioner / appellant / defendant depositing monthly interim compensation @ Rs.30,000/- per month on or before 15th day of each month till final disposal of the appeal. In paragraph 6 of the impugned order, the Appellate Court observed that neither of the party has filed either the valuation report or any document to show or come to the conclusion that as to how much compensation of the suit premises would get or fetch at the present time.

3. Mr. Joshi, upon arguing the Petition for quite some time, seeks

permission to withdraw the Petition with liberty to file Review Petition before the Appellate Court by producing material on record. He assures that within two weeks from today, petitioner will file Review Petition and serve copy on the other side during that period. He further submits that the time spent by the petitioner in prosecuting this Petition from 05.02.2019 till date may be excluded while considering the issue of limitation.

4. Mr. Pathare has no objection. He submits that respondents will also produce the material.

5. In view thereof, on the motion made by Mr. Joshi, Petition is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression of merits either way. If Review Petition is filed within two weeks from today, the time spent by the petitioner in prosecuting this Petition bonafidely from 05.02.2019 till date shall be excluded while considering the issue of limitation. The parties are at liberty to produce the material in support of their case. The Appellate Court will decide the Review Petition on its own merits and in accordance with law. All contentions of the parties on merits are expressly kept open. Petition is disposed of accordingly.

(R. G. KETKAR, J.)

Minal Parab