

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3576 OF 2019

Vijay Shukla ... Petitioner
Vs.
M/s. Ish Homes Pvt. Ltd. and others ... Respondents

Mr. Tanvir A. H. Shaikh for Petitioner.
Mr. Mayur Khandeparkar a/w. Mr. Asif Shaikh for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : MARCH 20, 2019

P.C. :

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

2. Heard Mr. Shaikh, learned Counsel for the petitioner and Mr.Khandeparkar, learned Counsel for the respondent No.1.

3. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 05.03.2019 passed by the learned trial Judge below exhibit-20. By that order, the learned trial Judge re-issued possession warrant against the petitioner in respect of the suit premises and appointed Bailiff A. S. Surve to handover possession of room No.1, House No.409/E, ground floor, Kadri Mansion, F.P.No.931, Veer Savarkar Marg, Prabhadevi, Mumbai 400 025 to the decree holder.

4. Mr. Khandeparkar submits that the decree is already executed on 15.03.2019 and respondent No.1 has taken possession of the suit premises.

5. Apart from challenging the order dated 05.03.2019, petitioner has

prayed for following reliefs:

- “b) This Hon'ble Court be pleased to stay the further execution proceedings in R.A.E.& R. Suit No.629 of 2007 on the file of Ld. Judge, Small Causes Court, Mumbai;
- c) This Hon'ble Court be pleased to permit the petitioner to deposit the arrears of compensation for the month from January to March, 2019 total Rs.75,000/-;
- d) This Hon'ble Court be pleased to condone the delay in depositing the compensation for the month from January to March, 2019 total Rs.75,000/-;
- d-1) This Hon'ble Court be pleased to direct respondent No.1 to maintain status-quo of suit premises;
- e) This Hon'ble Court be pleased to direct that the physical possession of the suit premises namely, Room No.1, House No.409/E, ground floor, Kadri Mansion, Veer Savarkar Marg, Prabhadevi, Mumbai 400 025 be restored to the petitioner immediately.”

6. Mr. Shaikh assures that within one week from today, petitioner will deposit arrears of compensation for the months of January, February, March of 2019 @ Rs.25,000/- per month that is, in all Rs.75,000/- in the Small Causes Court at Mumbai within one week from today. He submits that the time granted by this Court may be extended by directing the Small Causes Court to accept that amount. He further submits that the petitioner may be given liberty to adopt appropriate proceedings for claiming relief in terms of prayer clause (e).

7. In view thereof, without prejudice to the rights and contentions of the parties, petitioner is given extension of one week for depositing Rs.75,000/- being the compensation @ Rs.25,000/- per month for the months of January to March, 2019 in the Small Causes Court at Mumai. The Small Causes Court will accept the amount if deposited within one week from today. Grant of extension shall not be construed as ordering restitution by this Court. All contentions of the parties in that regard are expressly kept open. The amount deposited by the petitioner in this

Court shall be transmitted forthwith to the Small Causes Court, Mumbai. In so far as the relief in terms of prayer clause (e) is concerned, petitioner is at liberty to adopt appropriate proceedings by approaching the appropriate Court. All contentions of the parties in that regard are expressly kept open. Petition is disposed of accordingly.

8. All parties, including the Small Causes Court, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)

Minal Parab