

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5395 OF 2019

Prince Aly Khan Hospital and Others

...Petitioners

vs.

Shabina Naseer Virani and Others

...Respondents

Mr. Ashish Kamat a/w. Mr. Raj Patel, Ms. Aziza Khatri, Naaz Hashmi, Radhika Vyas i/b. AAK Legal, for the Petitioners.

Mr. S.G. Mittal, for Respondent Nos. 1 to 4.

Mr. S.S. Kanetkar, for Respondent Nos. 5 and 6.

CORAM : R. G. KETKAR, J.

DATE : JULY 19, 2019

P.C.:

. Heard Mr. Ashish Kamat, for the Petitioners, Mr. Mittal, for Respondent Nos. 1 to 4 and Mr. Kanetkar, for Respondent Nos. 5 and 6.

2. By this Petition under Article 227 of the Constitution of India, the Petitioners have challenged the impugned orders dated 30th July, 2018, 1st October, 2018 along with extension orders dated 8th August, 2018, 13th August, 2018, 23rd August, 2018, 29th August, 2018, 3rd September, 2018, 14th September, 2018, 19th September, 2018, 29th September, 2018, 14th November, 2018, 15th November, 2018, 21st November, 2018, 28th November, 2018, 14th December, 2018, 20th December, 2018 and 10th January, 2019,

14th January, 2019, 17th January, 2019, 24th January, 2019, 31st January, 2019, 18th February, 2019 and 21st February, 2019 and 6th March, 2019 (Exhibit “E” Colly.).

3. Rule. Learned counsel for the respective Respondents waive service. Having regard to the narrow controversy raised and at the request of the learned counsel for the parties, rule is made returnable forthwith and the Petition is taken up for final hearing.

4. Mr. Kamat has invited my attention to the additional affidavit dated 20th December, 2018 made by Mr. Mohamed Furniturewala, authorized signatory of Prince Aly Khan Hospital Trust and in particular paragraph No.15 thereof. In paragraph No. 15, he stated that Defendant Nos. 1 to 13 give solemn undertaking that they will not change the rent receipt of the suit premises, will not transfer the permanent alternate accommodation either in favour of the Plaintiffs (Respondent Nos. 1 to 4 herein) or in favour of Defendant Nos. 14 and 15 (Respondent Nos. 5 and 6 herein) until the final disposal of the suit and further agree to deposit the compensation of Rs. 60,300/- in the Small Causes Court towards temporary accommodation to be distributed amongst the Respondent Nos. 1 to 4 and Respondent Nos. 5 and 6. Mr. Kamat further states that presently the rent receipt of the suit premises

stand in the name of Naseer Virani, since deceased and the Respondent Nos. 5 and 6.

5. The learned counsel for the respective parties have tendered Minutes of Order dated 19th July, 2019 duly signed by Mr. Mohamed Furniturewala, Director-Finance and authorized signatory of the Petitioner, by Respondent No. 1 for herself and on behalf of Respondent Nos. 2 to 4 and Respondent No. 6 Razia Anwarali Karmali for herself and on behalf of Respondent Nos. 5. The same is taken on record and marked "X" for identification.

6. The parties agree that the status-quo order dated 30th July, 2018 which is extended from time to time stands vacated.

7. The compensation for temporary alternate accommodation of Rs. 60,300/- plus revised compensation from time to time shall be divided equally between Respondent Nos. 1 to 4 on one hand and Respondent Nos. 5 and 6 on the other in lieu of suit premises. This however shall not to be treated as admission on part of Respondent Nos. 5 and 6 about alleged rights of Respondent Nos. 1 to 4 as also not to be treated as admission on the part of Respondent Nos. 1 to 4 as alleged rights of Respondent Nos. 5 and 6 and the same shall be subject to the outcome of the suit.

8. The parties have also agreed that the Petitioners will give one month's notice to the Respondents before handing over the possession of permanent alternate accommodation at which time, Court Receiver, High Court, Bombay stands appointed in respect thereof. The discharge of the Court Receiver and the entitlement to the permanent alternate accommodation shall be subject to the final order/outcome of the RAD Suit No. 890 of 2018 pending before the Small Causes Court.

9. The Respondents will handover the quiet, vacant and peaceful possession of the suit premises after two months from the execution of the agreement for the payment of compensation in lieu of temporary alternate accommodation.

10. Rule is made absolute in the aforesaid terms with no order as to costs. Liberty is reserved to the parties to apply for disposal of the suit in a time bound manner. If such application is made, the learned trial Judge shall pass appropriate orders.

(R.G. KETKAR, J.)