

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.427 of 2012
WITH
CIVIL APPLICATION NO. 73 OF 2019
IN
CIVIL REVISION APPLICATION NO.427 of 2012

Hindustan Petroleum Corporation Ltd. ...Applicant

v/s.

Bai Failabai Wife of

Abdul Satar Suleman Oomer & Ors. ...Respondents

None for the Applicant.

Mr. Vikram Deshmukh a/w Ravi Vickey i/b ANB Legal for the
Respondents.

CORAM : DAMA SESHADRI NAIDU, J.
DATED : 17th October, 2019.

P.C.:

Not on Board. Upon production, taken on Board.

2. This Court, through its order dated 08/07/2019, permitted the landlords to withdraw the remaining amount lying with the Court. But the second respondent's counsel mentioned the matter on 27/08/2019. He brought to my notice the Registry's objection. That objection concerns the accrued interest. It seems the Registry has felt this Court's order,

08/07/2019, does not refer to the accrued interest. So it has refused to allow the second respondent to withdraw the amount unless the Court clarified on the accrued interest. Therefore, on 27/08/2019, this Court clarified as follows:

“5. I, therefore, clarify that this Court’s direction in its order dated 8th July 2019 did permit the landlord to withdraw the remaining amount and that includes the interest that may have accrued in the context of *mesne* profits.”

3. Thus, I felt that would be the end of the matter. But that was not to be.

4. Today, once again, the second respondents’ counsel mentioned the matter. This time, the Registry is said to have taken another objection: the directions apply to all the respondents, but only the second respondent filed the application for withdrawal. The objections are raised piecemeal.

5. The second respondent’s counsel brings to my notice that this Court, through its order dated 27/01/2017, in CA No.23/2017 and 24/2017, permitted the second respondent to come on record in the place of deceased Respondent Nos.1 and 7. The record reveals that even Respondent No.3 died and Respondent No.3 A, 3 B and 3 C were brought on record.

6. Then, the second respondent’s counsel has showed me the proceedings in CA No.607/2016 in CRA. From that, I gather that Respondent Nos.3 A, 3 B, 4, 5 and 6 gave up their rights in the suit property, through Deed of Conveyance, dated 27/12/2005. That means, only Respondent No.3C has remained besides the second respondent.

7. The learned counsel has shown me the affidavit, dated 22/08/2019, filed by Respondent No.3C. Through that affidavit, Respondent No.3C expressed his no objection to the second respondent's withdrawing the entire amount lying with the Registry.

8. Interestingly, all these documents are part of the record. But the Registry seems to have felt it fit to delegate the record scrutiny to the Judge. Period.

9. The second respondent's counsel has also pointed out that on an earlier occasion, the same Registry has permitted the second respondent to withdraw the amount deposited till then.

10. I am unhappy at the way the Registry has treated the Court's directives. It cannot, I am afraid, function as a super court. If the registry entertains any genuine doubt about any supposed ambiguity in the order, it may send a note along with the file to the Judge's chamber. Then, if the Judge feels the order, indeed, is ambiguous and needs correct, he or she may have it listed for correction or clarification on the judicial front. Instead, compelling the parties to approach the Court repeatedly may give an impression to the parties concerned that either the judge is inefficient, or the Registry is defiant. That does not augur well for the system.

11. I leave the issue at that. I hold that the Registry will allow Respondent No.2 to withdraw the amount—the whole amount inclusive of interest. If for any reason the Registry still has any more doubts, it may submit a note to me so I could rule on that without any embarrassment all around.

(DAMA SESHADRI NAIDU, J.)