

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO.528 OF 2018
IN
CIVIL REVISION APPLICATION NO.1017 OF 2010

Krishnabai Eknath Kadam (since deceased)	]	
1a) Vikas Eknath Kadam	]	
(now converted to Islam, and now known	]	
as Mohd. Vikar Shaikh)	]	Applicants

IN THE MATTER BETWEEN:

Krishnabai Eknath Kadam (since deceased)	]	
1a) Vikas Eknath Kadam	]	
(now converted to Islam, and now known	]	
as Mohd. Vikar Shaikh)	]	Applicants
Vs.		
Henry Christie Joseph	]	Respondent

WITH
CIVIL APPLICATION NO.524 OF 2018
IN
CIVIL REVISION APPLICATION NO.1016 OF 2010

Ganesh Laxman Chaphekar and others.	]	Applicants
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IN THE MATTER BETWEEN:

Ganesh Laxman Chaphekar and another.	]	Applicants
Vs.		
Henry Christie Joseph	]	Respondent

WITH

**CIVIL APPLICATION NO.529 OF 2018
IN
CIVIL REVISION APPLICATION NO.798 OF 2013**

Anil Pappanna Rudrap] Applicant

IN THE MATTER BETWEEN:

Jallubhai Pappanna Rudrap (since deceased)]
and others.]

Vs.

Henry Christie Joseph] Respondent

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Mr. Rafique A. Shaikh, learned Counsel for the Applicants.

Mr. Rahul P. Walvekar, learned Counsel for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 11th FEBRUARY, 2019.

P.C.

Heard Mr. Shaikh, learned Counsel for the applicants and Mr. Walvekar, learned Counsel for the opponents in the Civil Applications.

2. By these applications, the applicants have sought direction to accept amount of compensation within two weeks by the trial Court i.e Small Causes Court, Pune.

3. Mr. Shaikh has invited my attention to the orders dated 9th October, 2017 and 8th January, 2018 passed by this Court. By order dated 9th October, 2017, this Court fixed reasonable compensation @ Rs.2,000/- per month. The arrears were ordered to be deposited from 1st September, 1993. The applicants were also directed to deposit monthly compensation on or before 10th day of each succeeding month.

4. By order dated 8th January, 2018, the applicants were permitted to deposit amount of Rs.50,000/- on or before 9th January, 2018 and further balance outstanding of Rs. 54,000/- on or before 10th July, 2018 in the Small Causes Court, Pune. Civil Applications were allowed in terms of prayer clauses (a), (b) and (c). It was, however, made clear that the applicants shall strictly confine to the time limit by which the amounts are to be deposited by them and no further indulgence on this count would be granted.

5. Mr. Shaikh submitted that the applicants approached the Small Causes Court, Pune by filing applications on 23rd July, 2018 seeking permission to deposit the amount. The Small Causes Court did not accede to the request and directed them to apply this Court. Immediately, on 4th August, 2018, the applicants have filed applications seeking extension. Mr. Shaikh assures that the applicants will hereinafter not commit any default in depositing the arrears as also will go on regularly depositing compensation in the Small Causes Court, Pune under intimation in writing to learned Advocate for the opponents. In case they are unable to deposit the amount of compensation within the stipulated time, they will apply for extension before this Court and will not approach the Small Causes Court Pune for that purpose.

6. On the other hand, Mr. Walvekar strenuously opposed the applications. He submitted that in fact by order dated 8th January, 2018, it was made clear that the applicants were bound to deposit compensation on or before 10th July, 2018 and no extension will be granted. Despite that, they did not move this Court for extension of time and approached the Small Causes Court, Pune. He, therefore, submitted that no case is made out for extension of time.

7. I have considered the rival submissions advanced by learned Counsel for the parties. I have also perused the material on record. A perusal of the record shows that after hearing both the sides, the Civil Revision Applications were admitted by issuing rule and ad-interim stay was granted. By order dated 9th October, 2017, this Court fixed compensation @ Rs.2,000/- per month considering the fact that the premises admeasures 100 square feet and are used for residential purpose. Considering the financial capacity of the applicants, this Court fixed reasonable compensation @ Rs.2000/- per month.

8. By order dated 8th January, 2018, this Court extended time for depositing arrears of compensation up to 10th July, 2018. It is not in dispute that the applicants did not deposit the amount within the stipulated time. Instead of approaching this Court for extension of time, they approached the trial Court on 23rd July 2018 for extension of time. The learned trial Judge was, therefore, justified in not entertaining the applications made by the applicants. The applicants have thereafter taken out these applications on 4th August, 2018, inter alia, praying for extension of time for depositing the amount in the trial Court within two weeks from the date of the order.

9. In view thereof, time stipulated in the order dated 8th January, 2018 is extended up to and inclusive of 25th February, 2019. The applicants shall deposit the amount in the trial Court under intimation in writing to the learned Counsel for the opponent. The Small Causes Court, Pune shall accept the amount so deposited. It is made clear that in case, the applicants will go on depositing monthly compensation on or before 15th day of each succeeding month in the trial Court under intimation in writing to opponents Advocate. In case the applicants commit any default, the opponents will be at liberty to apply for vacating the interim order. The applicants are at liberty to move this Court if exigency again arises for extension of time and shall not move the

Small Causes Court, Pune. Subject to this, Civil Applications are allowed in terms of prayer clause (a) with no order as to costs.

10. All the parties including the trial Court to act upon the authenticated copy of this order.

[R.G. KETKAR, J.]