

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2310 OF 2018

Rajni Suresh Singh ... Applicant
Vs.
Rajeshkumar Raichand Jain ... Respondent

IN

WRIT PETITION NO.14158 OF 2017

Rajeshkumar Raichand Jain ... Applicant
Vs.
State of Maharashtra and others ... Respondents

Mr. Saurabh Bhutala for Applicant.

Mr. Sanjay Gidh for Respondent.

Mr. Y. D. Patil, AGP for Respondent-State in Writ Petition.

CORAM : R. G. KETKAR, J.

DATE : JUNE 13, 2019

P.C. :

Heard Mr. Bhutala, learned Counsel for the applicant and Mr.Gidh, learned Counsel for the respondent.

2. Civil Application was heard on 10.06.2019. In the order dated 10.06.2019, statements of Mr. Gidh that he has handed over keys of the suit premises to Mr. Bhutala and Mr. Bhutala acknowledging receipt of the keys were recorded. The matter was adjourned till today so as to ensure that the keys of the suit premises are handed over to the applicant as also to consider prayer clause (c) of the application. Mr. Bhutala confirms that the applicant has received possession of the suit premises.

3. In so far as prayer clause (c) in the application is concerned, applicant has prayed for issuing directions to respondent No.2 to pay monthly licence fee / compensation @ Rs.53,350/- per month from 13.03.2018 till handing over possession. It is in that context necessary to consider order dated 27.02.2018 passed by this Court in Writ Petition No.14158 of 2017. By that order, the order dated 30.10.2017 passed in Miscellaneous Appeal No.145 of 2017 as also order dated 30.10.2017

below exhibit-7 were quashed and set aside. The order dated 21.09.2017 passed by the learned trial Judge below exhibit-10 was restored. The defendant was directed to handover possession of the suit premises to the plaintiff within 15 days, failing which the Court Receiver was to take physical possession by dispossessing whomsoever in possession by taking police protection, if necessary. Liberty was reserved to the defendant to adopt due process of law for eviction of the plaintiff. After the plaintiff was put in possession, he was directed to go on paying licence fee to the defendants.

4. It is also necessary to refer to the order dated 06.03.2019. In paragraph 10, direction was issued to the plaintiff to pay compensation @ Rs.53,350/- from 13.03.2018 till 28.02.2019 within three months and that he will go on regularly paying licence fee @ Rs.53,350/- from March, 2019 onwards on or before 10th day of next succeeding month/s. It was made clear that in case the plaintiff does not pay arrears within the stipulated time, he will handover vacant and peaceful possession of the suit premises to Ms Rajani Suresh Singh.

5. It is the grievance of the applicant that plaintiff has not paid the compensation as directed on 06.03.2019. As against this, the plaintiff has contended that he has sustained loss of Rs.3,44,94,400/- till 13.04.2018.

6. As the plaintiff now has handed over possession of the suit premises to the applicant / defendant and the Suit filed by the plaintiff is pending in the Small Causes Court, claim made by the applicant in prayer clause (c) can be agitated in the pending Suit. All contentions in that regard are expressly kept open. Plaintiff is also at liberty to agitate his claim for refund of deposit of Rs.2 lakhs in the pending Suit. Order accordingly.

(R. G. KETKAR, J.)