

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.448 OF 2019

The Triveni Resort and Ins. Ltd.	]	Petitioner
Vs.		
Aruna Prabhakar Kondukar and Anr.	]	Respondents

Mr. N.D. Jayawant i/b Rahul P. Walvekar and Mr. Nilesh Pandey, Advocates
for the Petitioner.
Mr. Drupad S. Patil, Advocate for the Respondents.

CORAM : R.G. KETKAR, J.

DATE : 20th FEBRUARY, 2019.

P.C.

Heard Mr. Jaywant, learned Counsel for the petitioner and Mr. Patil, learned Counsel for the respondents at length.

2. This Petition takes exception to the order dated 30th October, 2018 passed by the learned District Judge-5, Kolhapur below Exhibit 7 in Regular Civil Appeal No.104 of 2018. By that order, the learned District Judge stayed eviction decree dated 17th February, 2018 passed by the learned trial Judge in Special Civil Suit No.213 of 2005 subject to the petitioner depositing amounts specifically depicted in clauses No.3,4,5 and 6 of the operative part of the order dated 17th February, 2018 within 90 days from the date of the order in the trial Court. The amount, if any, deposited by the defendant shall be adjusted from the amount to be deposited in the trial Court. The petitioner is directed to deposit the amount of Rs.60,000/- per month towards the rent of the suit property in the trial Court on or before 10th day of every calendar month. The

learned District Judge made it clear that stay would be automatically stand vacated in case of any two consecutive defaults or lapses on the part of the petitioner in depositing the amount in the trial Court. The learned trial Judge was directed not to disburse the amount deposited by the petitioner in the Court to either party till further orders.

3. The matter was adjourned from time to time so as to enable the parties to explore possibilities of settlement. The matter was heard on 11th February, 2019 and it was adjourned as and by way of last chance to 20th February, 2019. It was made clear that if by that time, the settlement is not arrived at, the Court will proceed to decide the matter on merits. Mr. Jaywant today submitted that settlement is not possible.

4. After arguing the Petition for quite some time, Mr. Jaywant, upon taking instructions from power of attorney holder of the petitioner-Mr. Ananda Karia Shetty, who is present in the Court states that petitioner will hand over vacant and peaceful possession of the suit premises to the respondent on or before 8th March, 2019 and will not seek further extension of time for handing over possession. He has tendered photo copy of his Aadhar Card, which is taken on record and marked 'X' for identification.

5. In view thereof, Petition is disposed of as not pressed. The petitioner will hand over vacant and peaceful possession of the suit premises to the respondent on or before 8th March, 2019.

6. **List the Petition for reporting compliance on 11th March, 2019.**

[R.G. KETKAR, J.]