

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal (L) No.567/2019
in
Chamber Summons No.770/2019
with
Interim Application No.1/2019

Basavraj
G. Patil

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Basavraj G. Patil
Date: 2019.12.21
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Yusuf Parmar

..... Appellant

Vs.

Kotak Mahindra Bank Ltd. & Ors.

..... Respondents

Mr. Amjith M. Anandhan a/w. Anish K. V. i/b. Sachin R. Pawar for the Appellant
Mr. Vishal Kanade a/w. M. B. Kale, Juhi Bhogle & Akshata Teli i/b. O. M. Gujar Law Chambers for Respondent No.1.
Mr. N. A. Bandiwadekar, First Assistant to Court Receiver.
Mr. Yusuf Parmar, Appellant in person.

**CORAM: K.K.TATED &
SARANG V. KOTWAL,JJ.**

DATED : DECEMBER 20, 2019

P.C.

1 Heard. By this appeal, the Appellant challenges the order dated 14.11.2019 passed by the learned Single Judge in Chamber Summons No.770/2019 in Execution Application No.1268/2011 appointing the Court Receiver for taking possession of the suit flat i.e. Flat No.1304, 13th Floor, Maharaja Retreat, Sy.No.261 (part) C.T.S.No.620 (part), Malad (East), situated at Malad.

2 After arguing for some time, when the learned counsel appearing for the Respondent Bank agreed that they will allow the Appellant to occupy the suit flat till 31.01.2020, the learned counsel for the Appellant submits that he received instructions from his client that he will hand over vacant and peaceful possession of the suit flat to the Court Receiver on or before 31.01.2020. He submits that the Appellant has no objection, if the Court Receiver takes formal possession without disturbing his peaceful possession. To that effect, the learned counsel for the Appellant has filed an affidavit-cum-undertaking. He submits that the Appellant Yusuf Parmar is present in court. He entered into witness box and admitted the contents and execution of the undertaking. Same is taken on record and mark-X for identification.

3 The learned counsel for the Appellant submits that in view of these facts the Appellant may be permitted to withdraw the appeal. To that effect, he has given in writing. Same is taken on record and marked "X-1" for identification.

4 Hence, following order is passed:

- a. The appeal stands disposed of as withdrawn.
- b. The Appellant can occupy the suit flat till 31.01.2020, as per his undertaking.
- c. The Court Receiver to take formal possession of the suit flat without disturbing the Appellant's peaceful possession till 31.01.2020.

d. It is made clear that if the Appellant fails to comply with the affidavit-cum-undertaking, the Court Receiver can take forcible possession, if necessary, with the help of the Police.

e. It is further made clear that the Appellant can approach the Bank for full and final settlement, which shall be decided on its own merits.

f. Pending Interim Application, if any, stands dismissed as infructuous.

g. The parties to act on an authenticated copy of this order.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)