

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.690 OF 2019

(RISHABH RAJESH SHYAM SUNDER BHATIA...VS.. RAKESH KAMAL VERMA)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D.V.Chauhan, Adv.a/w. Shri R.M.Tahaliyani, Adv. for Petitioner.
Shri J.M.Gandhi, Advocate for Respondent.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 06, 2019.

The impugned order is appealable under Order 43 Rule 1(r) of the Code of Civil Procedure. While issuing notice, in the order dated 25th January 2019, this Court expressed that the writ petition was entertained only to explore the possibility of amicable settlement between the parties through mediation. It is not working out. Hence, as alternate remedy is available, the learned advocate for the petitioner seeks permission to withdraw the petition with liberty to avail the alternate remedy. However, he states that looking to the exigency of the situation, prayer clause (ix) in the memo of petition may be considered and granted.

Though the request is opposed by the learned advocate appearing for the respondent, considering the facts of the case, I find that the request made on behalf of the petitioner in this regard is not unjustified. If the Court Commissioner is appointed to take stock/inventory of the suit premises and the articles therein it will not cause prejudice to the respondent, but would facilitate adjudication by the Court at appropriate stage and avoid multiplicity of litigation.

The petitioner has agreed to bear the charges of execution of the commission.

Shri Apoorva De, Advocate is appointed as Commissioner to take stock/inventory of the suit premises and the articles therein and to submit the report, as referred in the prayer clause (ix) of the petition, before Additional Small Causes Court, Nagpur.

The day, date and time of execution of the Commission shall be fixed by the Commissioner in consultation with the advocates for both the parties.

The learned Advocate for the petitioner assures that the charges of the execution of the commission i.e. Rs.Fifty Thousand will be paid to Shri Apoorva De, Advocate by demand draft.

The learned Commissioner shall initiate the process as soon as the charges are paid to him and submit report within five days of the receipt of the necessary charges.

The writ petition is **disposed** in the above terms.

JUDGE