



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

CIVIL APPLICATION (CAW) NO. 484 OF 2025

IN

WRIT PETITION NO. 2364 OF 2018 (D)

Smt. Manjushri w/o. Prayas Sakhare and another
..VS..
Mahesh S/o. Zangoji Ghotekar and others

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

Court's or Judge's orders

Mr. Subhash Kalbande, Advocate for respondent No.1.
Mrs. Smita Taksande, Advocate for respondent No.3.
Mr. B. M. Lonare, Advocate for respondent No.6.

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 26th FEBRUARY, 2025

1. Heard both the parties.
2. Present application is filed for grant of permission to respondent No.1 to withdraw the amount of rent of Rs.550/- per month deposited by the petitioner in the Court.
3. The petitioner in disposed of Writ Petition No.2364/2018, challenged the execution proceeding filed by respondent No.1/present applicant and prayed to protect her possession in the said writ petition. This Court by order dated 16.07.2018 directed the petitioners to deposit an amount of Rs.6,50,000/- and further directed to deposit monthly rent of Rs.550/- per month

starting from 1st August, 2018. This Court on 02.07.2019, while disposing of the petition observed as under :

“The application seeking review of the judgment dated 18/02/2016 that was filed by the petitioners was dismissed as withdrawn on 07/04/2017 with liberty to file a suit in that regard. A fresh suit has accordingly been filed. The direction in respect of damages at Rs.500/- per day from the date of dispossession continues to operate. In that view of the matter, the respondent no.1 permitted to withdraw an amount of Rs. three lakhs twenty five thousand subject to filing of an undertaking within four weeks that in case the petitioners succeed in S.C.S. No.300/2017, the respondent no.1 shall re-deposit the amount withdrawn with interest at such rate the Court may direct. The remaining amount of Rs. three lakhs twenty five thousand is permitted to be withdrawn by the respondent no.1 on furnishing solvent surety to the satisfaction of the Registrar (Judicial) and such withdrawal would also be subject to the outcome of S.C.S. No.300/2017.

It is open to the respondent No.1 to take such steps as are permissible in law to execute the order passed in C.R.A. No.58/2015. Similarly the petitioners are free to apply to the trial Court to protect their possession in question. The interim order dated 16/07/2018 shall continue to operate for a period of four weeks from today so as to enable the petitioners to seek relief before the trial Court”.

4. Accordingly, the amount of Rs.3,25,000/- was withdrawn by furnishing an undertaking and remaining amount of Rs.3,25,000/- was withdrawn by furnishing solvent surety.

5. Learned Counsel for the respondent No.1/applicant submitted that as per their knowledge, the amount of Rs.550/- per month deposited by the petitioner for about 72 months which approximately comes to Rs.39,600/-. It is also brought to my notice that an objection raised by the petitioner came to be rejected vide order dated 06.02.2023 below Exhibit-11. As such, the respondent No.1/applicant though having decree in his favour and an objection of the said petitioner also rejected, the amount of Rs.550/- per month deposited by the petitioner be permitted to withdraw by this applicant/respondent.

6. Considering the order passed by this Court and also rejection of objections, the amount of Rs.550/- per month was directed to be deposited by the petitioner is towards occupation charges/rent.

7. In view of the rejection of objections, in my considered view, there is no impediment permitting the respondent No.1/applicant herein – decree holder to withdraw the said amount deposited by the petitioner as the petitioner in defiance of order in execution, still holding the possession.

8. As such, the civil application is **allowed**.

9. The respondent No.1/applicant is permitted to withdrawn the amount deposited in this Court by the petitioners towards occupation charges/rent @ Rs.550/- per month along with accrued interest thereon.

The Civil Application stands **disposed of**.

(SMT. M.S. JAWALKAR, J.)

Kirtak