

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

REVIEW APPLICATION STAMP NO.34666 OF 2019
IN
CIVIL REVISION APPLICATION NO.200 OF 2018

MADHUKAR SHANKAR JAKHETE AND ANOTHER
VERSUS
ASHOK NAMDEO SONAWANE

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Advocate for Applicants : Mr. Mewara Rajesh H.
Advocate for Respondent : Mr. Patil Mangesh G

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CORAM : V.K. JADHAV, J.
Dated: January 31, 2020

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PER COURT :-

1. With the consent of both the parties, heard finally.

2. By this review application, the applicants are seeking review of the order dated 17.12.2018 and to restore the Civil Revision Application no.200 of 2018.

3. The order dated 17.12.2018 of this court (Coram : N.M.Jamdar, J.) reads as under :-

“ 1. On 28 November 2018 the following order was passed:

“1. The learned Counsel for the applicants states that he has taken instructions and the applicants are not desirous of prosecuting this

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application, if the reasonable time to vacate is granted. The learned counsel for the applicants states that one year and eight months time be granted.

2. The learned Counsel for the respondent opposes this request and states that the trial court granted only two months time.

3. Considering the fact that in the trial court and appellate court, the applicant was contesting the matter and this application is not being pressed, in my opinion, one year time to vacate the suit premises would be reasonable. Undertakings be filed by both the applicants. To enable both these applicants to the said undertakings in the prescribed form/affidavit, hearing of this petition is deferred to 6 December 2018. To be listed under the caption "For Direction".

2. Thereafter on 6 December 2018 following order was passed.

"1. Learned counsel for the applicants reiterates that the applicants have decided not to contest this application and to file an undertaking as recorded in the order dated 28 November 2018. He seeks further time to file an undertaking.

2. At his request, stand over to 10 December 2018, under the caption 'for directions'. "

3. The learned Counsel for the applicants has tendered an undertaking on behalf of the applicants.

4. The learned Counsel for the respondent states that he has gone through the undertaking and the same is in order.

5. The undertaking signed on behalf of both the applicants is taken on record, marked 'X' for identification and is accepted. The applicants are stated to be present in the Court.

6. The learned Counsel for the applicants, on instructions, informs that the applicants alone are in possession of the suit premises. The applicants have undertaken to handover the possession of the suit

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premises to the respondent, by the end of 12 months from 17 December 2018, meaning thereby on 17 December 2019.

7. In view of the undertaking given, the Revision Application is disposed of, as above, and the time is granted to the applicants to vacate the suit premises till 17 December 2019.”

4. Learned counsel appearing for the applicants submits that the applicants were never informed by their counsel regarding filing of any undertaking pursuant to the order passed by the Court. The applicants were never informed about disposal of Civil Revision Application by their counsel and their son verified the status of the matter and came to know real facts. In the month of August 2019 son of the applicants informed to them that they had filed undertaking in Civil Revision Application regarding vacating of the premises within one year from the disposal of the matter.

5. It appears that as per the order dated 28.11.2018 wherein the statement made on behalf of the applicants came to be recorded to the effect that they are not desirous of prosecuting this application, if the
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reasonable time to vacate the premises is granted. Accordingly, they sought one year and eight months time for vacating the premises. Thus, this Court has observed that one year time to vacate the suit premises would be reasonable, if the undertaking is filed by both the applicants to that effect. It is further recorded in the order dated 17.12.2018 that learned counsel for the applicants had tendered an undertaking on behalf of the applicants to that effect.

6. Even during the pendency of the application seeking condonation of the delay caused in filing the review application, by order dated 25.11.2019 this Court has recorded the statement made on behalf of the applicants on instructions by their counsel that the applicants are ready to vacate the premises and withdraw this review application provided if they are given some time i.e. approximately two months from 25.11.2019. Consequently, for the limited purpose, notice has been issued to the respondents, returnable on 2.12.2019. On 6.12.2019 learned counsel for the
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applicants, on instructions, sought time of one and half months as last chance, to vacate the premises. Learned counsel for the applicants further reiterated that the applicants assure that they would not press their review application. On 17.1.2020 at the request of the learned counsel for the applicants, matter is posted today, as last chance. Even, today also the learned counsel for the applicants seeks time to vacate the premises without any justifiable cause. Thus, considering the entire aspect of the case, I do not find that any case is made out to review the order dated 17.12.2018. There is no substance in this review application. Hence, following order.

ORDER

Review application stands dismissed.

(V.K. JADHAV, J.)

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