

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 132 OF 2020

PANDURANG VISHNU MAHATME (DEC)
THR. GITADEVI P. MAHATME, THR. HER
ATT., SAYINDANDAN S. SATORDEKAR., ... Petitioner
Versus
OTTO JAIME HAMILTON P. DE SOUZA
AND ANR., ... Respondents.

Shri A. D. Bhobe, Advocate for the petitioners.
Shri J. E. Coelho Pereira, Senior Advocate with Shri V. Korgaonkar for the
respondents.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 20th August 2020

P.C.

The petitioner is the tenant; the respondents are the owners. The respondents sued the petitioner to recover possession. It was in Rent Case No.2/1998. Eventually, the petitioner suffered concurrent findings. So this Writ Petition.

2. Both Shri Bhobe, the learned counsel for the petitioner, and Shri J. E. Coelho Pereira, the learned Senior Counsel for the respondents, have argued elaborately. But in the end, Shri Bhobe, on instructions, has submitted that the petitioner undertakes to vacate the suit premises by the end of this year. The respondents' counsel agrees but insists that the petitioner should file an undertaking to that effect.

3. Now, after an adjournment, Shri Bhobe informs me that the petitioner has already filed an affidavit undertaking to vacate the suit property by 1st January 2021. The Court takes the undertaking on file and makes it a part of this Order.

4. Besides, the learned Senior Counsel for the respondents also wants this Court to direct the petitioner not to create any third-party interest in the meantime. For this, the petitioner's counsel readily agrees.

Correction
carried out as
per order
dt.23.11.2020.
Sd/-
P.A.

I, therefore, hold that the petitioner shall not create any third-party interest and handover the possession by 1st January ~~2020~~ ²⁰²¹ as undertaken.

5. The respective counsel have informed me that before the Petitioner could come to this Court, the respondents filed Execution Petition No.8/2019/E. In that, the Executing Court, on 20.02.2020, ordered the petitioner to handover the vacant possession to the respondents. But before the Executing Court passed that order, the petitioner had filed this Writ Petition on 6.2.2020. That is, the Executing Court's order is a *lis pendens* development. Now, both the parties agree that given the amicable settlement between them, the Executing Court's direction may not assume importance.

Correction
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per order
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Sd/-
P.A.

6. At any rate, the learned Senior Counsel for the respondents wants the petitioner to submit the keys of the premises by 1st January ~~2020~~ ²⁰²¹ to the Executing Court, where the execution proceedings are still pending. He also wants the petitioner to keep paying the rent regularly until then. The petitioner agrees.

With these observations, I dispose of the Writ Petition.

DAMA SESHADRI NAIDU, J.