

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.450 OF 2016
WITH
MISCELLANEOUS CIVIL APPLICATION NO.1292 OF 2021 (F)
IN
WRIT PETITION NO.450 OF 2016

KAMALUDIN SUMANI, REP.
BY HIS ATTORNEY, AMIN
MEHENDIBHAI SOMAI ... Petitioner/ Applicant.

VS

MANUEL BARETTO XAVIER
(DECEASED) AND 6 ORS. ... Respondents.

Mr. Joaquim Godinho, Advocate *for the Petitioner / Applicant.*

Mr. Sudesh Usgaonkar with Ms. Rosette Pereira, Advocates *for Respondents No.2, 3(a) and 3(b).*

Coram: M.S. SONAK, J.

Date: 20th July 2021.

ORAL ORDER:

1. Heard learned Counsel for the parties.
2. The main petition was instituted to question the order of eviction made against the Petitioner from the suit premises.
3. By order dated 18.04.2017, the Petitioner was granted interim relief subject to depositing monthly compensation of Rs.2,000/- in this Court.

4. The Petitioner has now filed an application seeking leave to hand over the possession of the suit premises to the Respondents having regard to the conditions of the suit premises. Further, Mr. Godinho, based on instructions from the Petitioner states that the Petitioners are no longer interested in pursuing the petition and will hand over the possession of the suit premises to the Respondents in this week itself subject to the convenience of the Respondents. He seeks leave to withdraw the Petition.

5. Mr. Godinho submits that in terms of this Court's order dated 18.04.2017, the Petitioners have deposited Rs.2,000/- per month in this Court and the amount comes to approximately ~~Rs.72,000/-~~ ^{Rs.94,000/-}. He submits that having regard to the state of the premises, the Respondents may not be permitted to withdraw more than 50 percent of the deposited amount by way of compensation.

6. Mr. Sudesh Usgaonkar, the learned Counsel for the Respondents states that the Respondent will take possession of the suit premises this week.

7. Mr. Usgaonkar on instructions also states that the ~~Respondents~~ ^{Respondent Nos. 2, 3(a) and 3(b)} will withdraw only 50 percent of the deposited compensation amount so that the rest can be withdrawn by the Petitioner.

8. The statements made by the parties through their respective Counsels are accepted as undertakings given to this Court.

9. Consistent with the undertakings, the Petitioner will have to hand over possession of the suit premises to the Respondents in this week.

10. ~~The Respondents~~ ^{Respondent Nos.2, 3(a) and 3(b)} are permitted to withdraw 50 percent of the amount deposited by the Applicants in this Court. The balance of 50 percent can be withdrawn by the Petitioner herein.

11. Upon receipt of the possession of the suit premises by the Respondents and withdrawal of 50 percent of the compensation amount, the Respondents will have no further claims against the Petitioner. Similarly, the Petitioner will hand over the possession of the suit premises to the Respondents this week and will have no claims of whatsoever nature against the Respondents.

12. The learned Counsel for the parties including in particular, Mr. Godinho, the learned Counsel for the Petitioner states that he has explained the situation to the Petitioner and this prayer for withdrawal of the petition as also the handing over of the possession of the suit premises is made on the express instructions of the Petitioner after understanding fully the implications. Mr. Godinho pointed out that this is the reason why the application has been filed before this Court for handing over the possession of the suit premises and this application is supported by an affidavit of Mr. Amin Mehendibhai Somai, the constituted Attorney and brother of the Petitioner.

13. The petition is now disposed of as withdrawn after accepting the undertakings as aforesaid.

14. All concerned to act based on an authenticated copy of this order.
15. The Miscellaneous Civil Application is also disposed of.

M.S. SONAK, J.

jfd/-