

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1096 OF 2018

Tulshiram Appa Kapse .. Petitioner

Vs.

Rahul Ganpatrao Talawadekar .. Respondent

...

Mr. Jayesh M. Joshi for the Petitioner.

Mr. Kuldeep U. Nikam for the Respondent.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 28TH SEPTEMBER, 2021.

P.C:-

1. A compromise was arrived at between the Petitioner and the Respondent in the Lok Adalat on 12/03/2016 and the discord between the two was settled by recording that the petitioner shall pay an amount of Rs.15,75,000/- to the Respondent towards cancellation of Deed of Conveyance dated 12/09/2013, failing which the Respondent was held entitled to take possession of the suit property. Since the commitment was not honoured by the Petitioner, the Respondent instituted Special Darkhast bearing No.31 of 2016 before the Civil Judge, Senior Division, Alibaug,

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and even an application was taken out for issuance of possession warrant, which was allowed on 06/01/2018.

2. Being aggrieved, the Petitioner rushed to this court by instituting the present petition. On 31/01/2018, this court passed the following:

“4] Considering that the consent decree was for payment of the amount of Rs.15,75,000/- and the Petitioner is ready to deposit the entire amount of Rs.15,75,000/-, in the trial Court, within four days, the stay is granted to the execution of the possession decree, also on the condition that the Petitioner will further deposit whatever amount of interest is found to be due. If the Petitioner fails to deposit this amount on or before 5th February, 2018, in the trial Court, the stay will stand automatically vacated.”

3. The Petition was pending before this court and today when the matter is called out, learned counsel for the Petitioner and the Respondent again arrived at a settlement to the effect that the Petitioner shall pay cumulative interest of Rs.1,11,000/- towards the amount, which he has agreed to deposit, but could not deposit till this court was required to pass an order on 31/01/2018. Since the Petitioner and the Respondent are ad idem with the fact that this will satisfy the claim of the Petitioner, I see no hesitation in accepting the said settlement, which would result in disposing of the present Writ Petition,

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which is pending for adjudication since nothing remains to be determined in it.

4. By accepting the statement of the Petitioner that he shall deposit an amount of Rs.1,11,000/- in the lower court within four weeks from today and the Respondent accepting the said statement, the Writ Petition is allowed in the aforestated terms. No order as to costs.

5. Needless to state that the Special Darkhast bearing No.31 of 2016 gets satisfied with the above statement.

6. On deposit of the said amount of Rs.1,11,000/- in the lower court, the Respondent shall be permitted to withdraw the same along with initial amount, which was deposited by the Petitioner in pursuance of the order of the Lok Adalat dated 12/03/2016 along with interest, if any, accrued to the said deposit.

[SMT. BHARATI DANGRE, J.]