

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2429 OF 2021

IN

WRIT PETITION NO. 1232 OF 2016

WITH

INTERIM APPLICATION (ST) NO. 96274 OF 2020

IN

WRIT PETITION NO. 1232 OF 2016

1. Vikas Savla Manjrekar
2. Yojana Vikas Manjrekar

... Applicants/
Original Respondents

V/s.

Vijaya Kasat Fernandes

... Respondent/
Original Petitioner

Ms. Deepali Bagla i/by Bagla & Associates for Applicants/Original Respondent.
Mr. N. P. Bhavsar, for Respondent/ Original Petitioner.

CORAM : A.S. GADKARI, J.

DATE : 28th October, 2021.

PC. :

1. Heard Ms. Bagala, learned counsel for the Applicants/original respondent and Mr. Bhavasar, learned Advocate for the Respondent/original petitioner. Perused entire record.

2. Record discloses that, by a reasoned Order dated 9th January, 2020, the petition filed by the Respondent/original petitioner was dismissed and she was directed to vacate the suit premises within a period of 15 days from the date of uploading of the said Order on the official website of the

High Court of Bombay.

3. The Respondent/original petitioner thereafter moved Interim Application No.1 of 2020, seeking extension of time and to make payment in that behalf. The said application was accordingly allowed by an Order dated 16th March, 2020 and the time to vacate the suit premises was extended up to 30th March, 2020. In furtherance of the Order passed by the full Bench of this Court and by giving benefit to the Respondent/original petitioner, the proceeding of execution of the Order passed by this Court was not initiated. The Applicants/original respondent thereafter, filed the present application on 14th July, 2021. The present application was moved before this Court on 19th July, 2021 for issuing directions to the Competent Authority Rent Control Act, Konkan Division, Mumbai. This Court accordingly issued directions by its Order dated 19th July, 2021.

On 2nd August, 2021, the then learned Advocate for the Respondent/original petitioner Mr. Kunchge had submitted before this Court that Respondent/original petitioner has preferred Special Leave Petition before the Hon'ble Supreme Court against the Order dated 9th January, 2020 passed in Writ Petition No. 1232 of 2016 and in view of the said statement, the operation and implementation of Order dated 19th July, 2021 passed in Interim Application (St.) No. 13461 of 2021 i.e. the present application was kept in abeyance.

That, on 24th August, 2021, the learned Advocate appearing for Respondent/original petitioner had sought time to file undertaking for compliance of Para No.3 of Order dated 16th March, 2020 passed in Interim Application No.1 of 2020. At his request matter was thereafter adjourned to 30th August, 2021.

The record further clearly reveals that, on 30th August, 2021, the learned Advocate for the Respondent/original petitioner, on instructions made a solemn statement before this Court that, the Respondent/original petitioner will clear entire arrears of compensation as of 30th September, 2021 on or before 20th September, 2021. The said statement was accepted as an undertaking given to this Court.

On 7th October, 2021, the learned counsel appearing for the Applicants/original respondent, landlord pointed out to this Court that, the statement made by the learned Advocate for the Respondent/original petitioner on 16th March, 2020 has not been complied with by the Respondent/original petitioner – licensee. It was also pointed out that, the statement made by Respondent/original petitioner and recorded in Order dated 30th August, 2021 has also not been complied with by the Respondent. The present application was thereafter, adjourned to 21st October, 2021.

On 21st October, 2021, the Respondent/original petitioner changed her Advocate and Advocate Mr. Bhavasar appeared and submitted before this Court that he would be appearing in this matter thereafter. At his request, the present matter was adjourned to 26th October, 2021. On 26th October, 2021 also the Respondent/original petitioner sought time which was accordingly granted up to today for complying with earlier Orders including the solemn statement made by the Respondent before this Court on 30th August, 2021.

4. It is a matter of record that till date, the Respondent/original petitioner has not cleared arrears of compensation despite making solemn statement before this Court. Today also Mr. Bhavasar learned Advocate for the Respondent/original petitioner seeks time on the ground that, the Respondent/original petitioner is admitted to hospital on 26th October for some ailment.

5. The learned counsel for the Applicants submitted that, though the Respondent/original petitioner filed Special Leave Petition in the Supreme Court on 25th March, 2021, till date, they have not seriously perused it and in fact had sought adjournment when it was listed for admission. It is thus clear that, there is no stay to the Order dated 9th January, 2020 passed in Writ Petition No.1232 of 2016 till date by the Hon'ble Supreme Court.

The conduct of the Respondent/original petitioner as noted herein above, is self eloquent to draw a safe inference that, she is not serious enough in complying with the solemn statement made by her ere to this and various Orders passed by this Court. It clearly appears that, Respondent/original petitioner is taking undue advantage of the leniency shown to her by this Court.

6. In view of the above, the interim relief granted in favour of the Respondent/original petitioner by Order dated 2nd August, 2021 in present application, which is in force till today, is vacated and the Competent Authority Rent Control Act, Konkan Division, Mumbai is directed to immediately execute Order dated 9th January, 2020 passed by this Court. The Competent Authority is also permitted to take assistance of local police for smooth execution of the Order initially passed by it dated 10th July, 2015 and confirmed by this Court by Order dated 9th January, 2020. The Competent Authority Rent Control Act, Konkan Division, Mumbai is directed to comply with the Order dated 19th July, 2021 passed earlier to this expeditiously and conclude the proceedings of Execution Application No.38 of 2020 filed by Applicants within a period of two weeks from the date of receipt of this Order, without seeking extension in that behalf.

It is made clear that no sympathy or leniency will be shown to the Respondent/original petitioner in view of her conduct as noted herein above.

7. Interim Application No. 2429 of 2021 is accordingly allowed in terms of prayer clause (a) (c) (d) & (e).

8. In view of Order passed in Interim Application No.2429 of 2021, Interim Application (St.) No.96274 of 2020 does not survive and is also disposed off.

[A.S. GADKARI, J.]

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