

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 99 OF 2019

M/S KASHINATH VYANKATRAO PHUTANE FIRM THROUGH ITS PROPRIETOR
GOVIND KASHINATH PHUTANE
VERSUS
MUKUNDDAS BANSILALJI SONI

...

Advocate for Petitioner : Mr. Sushant V. Dixit
Advocate for Respondent : Mr. M.M. Pail (Beedkar)

WITH

CIVIL REVISION APPLICATION NO.193/2019

MUKUNDDAS S/O. BANSILALJI SONI
VERSUS
M/S. KASHINATH VYANKARRAO PHUTANE FIRM
THROUGH ITS PROPRIETOR.

...

Advocate for applicant : Mr. M.M. Patil Beedkar,
Advocate for respondents : Mr. Sushant V. Dixit.

CORAM : RAJESH S. PATIL, J.

DATE : 14TH OCTOBER, 2022.

ORDER:

1] Civil Revision Application No. 99 of 2019 is filed by the original tenant challenged the impugned finding of the lower courts below. The suit was filed by the landlord for eviction on the ground of bonafide requirement and arrears of rent. The trial court and the appellate court have given a concurrent finding on the said issue.

2] The original tenant/applicant No. C.R.A. No. 99 of 2019 has filed the present civil application challenging the findings of both the courts below of eviction.

3] So also, the original landlord respondent in C.R.A. No. 99 of 2019 has challenged the appellate court order by way of C.R.A. No. 193 of 2019,

challenging the issue of quantum of rent and the interest accrued thereon.

4] The learned Advocate for the tenant/applicant in C.R.A. No. 99 of 2019 states that his client has deposited part of the amount in the District court and the remaining amount in this Court.

5] The matter was argued before the earlier Bench of this Hon'ble Court and on 30.09.2022, it was recorded that the parties have arrived at a settlement pursuant to which time of five months was granted to the original tenant to vacate subject to an undertaking to be filed. So also, it was recorded in the said order, as far as monetary claim of the landlord is concerned, same should stand satisfied, with landlord withdrawing the amounts alongwith interest accrued thereon, from this court and the District Court.

6] Today, an undertaking dated 13th October, 2022 is filed by one Govind s/o. Kashinath Phutane, as a proprietor of the firm M/s. Kashinath Vyankatrao Phutane stating therein, that he will vacate the suit premises within a period of five months from the date of order dated 30.9.2022 and hand over peaceful possession to the landlord. So also, he further has given an undertaking that he will not damage the suit premises during the period of his possession of the suit premises. He has also given an undertaking that he will not alienate the suit premises or create any third party interest till he vacates the suit premises. The undertaking given by the original tenant is accepted by this court as an undertaking to this court.

7] The advocate for the original landlord in C.R.A. No. 193 of 2019 further states that certain things still remain to be clarified. He states that the tenant has also to deposit the agreed rental amount of Rs. 4005 p.m., for the period for which he will be in occupation of the premises. He also further states that in case of failure to vacate he should be permitted to execute the decree. He also further states that it should be clarified that the monies

deposited in both the courts should be allowed to be withdrawn, by his client.

8] The learned advocate for the applicant/original tenant has not disputed about the fact that his client is ready to vacate and to pay the agreed amount along with the rent for the period for which he will be occupying the premises from the date of order dated 30.9.2022. In view of this, it is hereby clarified that said undertaking of Mr. Govind Phutane as proprietor of M/s. Kashinath Vyankatrao Phutane is accepted by this Court. The said undertaking as stated by the advocate for the applicant, is on behalf of the persons who are occupying the suit premises.

9] The tenant should directly pay the amount by way of Demand Draft or Pay Order towards five month's rent to the landlord, for the period, he would be in occupation, till he vacates the suit premises.

10] In case, the tenant violates the undertaking given to this Court, it is needless to say that same would amount to contempt of the undertaking given to this Court. In such situation, the landlord is free to take action as permitted under law. So also, it is clarified that the landlord i.e. applicant in CRA No. 193 of 2019 is permitted to withdraw the amount alongwith interest accrued thereon deposited in the present proceeding and in the District Court, i.e. RCA No. 70 of 2017, pending before the District Judge – 1, Parbhani, immediately.

11] In the result, C.R.A. No.99 of 2019 and C.R.A. No. 193 of 2019 are disposed of. The decree passed by the lower court is accordingly modified.

[RAJESH S. PATIL]
JUDGE.

grt/-