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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO.1164 OF 2022
IN
REVISION APPLICATION NO.501 OF 2018**

Noor Mohamed Ibrahim Tambe Applicant
In the matter between
Imperial Tube & Hardware Mart & Ors. Applicants
Versus
Noor Mohamed Ibrahim Tambe Respondent

Mr. Gurubala Birajdar i/b.Rahul Kadam for the Applicant in
IA/1164/2022.
Mr. Jaydeep Deo for the Applicant in CRA/501/2018.

**CORAM : A.S. GADKARI, J.
DATE : 10th MARCH, 2022**

P.C. :

It is an admitted fact on record that, the Revision Applicants have failed to comply with the directions issued by this Court by its Order dated 15.01.2020.

2. Mr. Deo, learned counsel appearing for the Revision Applicants, on instructions, fairly conceded to the fact that, the said Applicants are unable to pay the said interim compensation. In view thereof, Order dated 15.01.2020 granting interim relief in favour of the Revision Applicants stands vacated with immediate effect and the Respondents are permitted to proceed with the

execution of the impugned Judgment and Orders passed by the Courts below.

3. At this stage, Mr.Deo, learned counsel appearing for the Revision Applicants submitted that, the Applicants had given the suit premises for repairs to a contractor appointed by MHADA, who is in the possession of tenanted premises.

4. It is to be noted here that, neither before the Trial Court nor before the Appellate Court the said fact was mentioned by the Revision Applicants. Even on 15.01.2020 when the Revision Application was admitted, this fact was not brought to the notice of this Court.

It clearly appears to this Court that, in view of the decree passed in favour of the Landlord, the Revision Applicants as and by way of an afterthought have inducted the contractor in the said premises only to frustrate the decree passed against it and nothing else. The said plea cannot be accepted for the plain and simple reason that on 15.01.2020 the said fact was not pointed out to this Court by the Revision Applicants, at the time of admission of the said Revision Application, otherwise it would have certainly been reflected in the Order of admission by this Court.

6. In view of the above, the Executing Court is directed to take into consideration this factual aspect. The Executing Court is permitted to take assistance of local police for eviction of all the concerned from the suit premises as may be permissible under the provisions of law.

7. Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)