

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 581 OF 2022****IN****WRIT PETITION NO.822 OF 2001****(corrected as per order dated 15/2/2022)**

Gauri Seth & Anr

.. Petitioners

Versus

M/s.Bentleys Hotel

.. Respondent

WITH

WRIT PETITION NO.4169 OF 2000

M/s.Bentleys Hotel & Ors

.. Petitioners

Versus

Surendra Nath Bagai & ors

.. Respondents

WITH

WRIT PETITION NO. 3178 OF 2000

Smt.Perviz Farrok Kaka & Ors

.. Petitioners

Versus

Surendra Nath Bagai & ors

.. Respondents

...

Mr. Mehul Rathod for the petitioners.

Respondent present in V.C.

CORAM: RAVINDRA V. GHUGE, J.**DATED : 9th FEBRUARY, 2022****P.C:-**

1 The learned Advocate for the applicants submits that the applicants are the LR's of the petitioner before this Court in Writ Petition No.822 of 2001. As the sole petitioner has passed

Tilak

away, the LR's need to be brought on record. He then submits that as the parties have filed consent terms before the Small Causes Court and the suit property is handed over in vacant condition to the landlord, the Writ Petition is sought to be withdrawn by these LR's.

2 In view of the above, this Interim Application is allowed. The LR's be brought on record in the Writ Petition.

3 The additional affidavit (72 pages) filed by these LR's dated 13/12/2021, which is placed before the Court is taken on record along with the documents and collectively marked as 'X-1' for identification. The learned Advocate for these LR's/ petitioner submits on instructions from the LR's who are available online in his chamber that the petition be disposed off in view of X-1.

4 Though Advocate Jhaveri representing the respondent is not present online, Mr.Homi Kaka whose Power of Attorney is at page 61, and who appears in the terms of settlement on page 66, and his PAN card number is found at page 67, in X-1, is available online and submits that the matter has been settled in the light of X-1. He has no objection if the Petition is disposed off in terms thereof. Shri Rathod, learned Advocate identifies Mr.Kaka.

5 The learned Advocate for the LR's submits that pursuant to the order of this Court, a bank guarantee for an amount of Rs.Five lakhs was tendered by the deceased petitioner, copy of which is at page 30 below X-1. Now, the said bank guarantee will have to be cancelled in view of his demise and the settlement. Shri Kaka confirms the said statement. As such, the learned Registrar of this Court is directed to return the said bank guarantee to the concerned Bank and is to be treated as cancelled.

6 The learned Advocate for the LR's then submits that a new bank guarantee of Rs.Five lakhs has been tendered by applicant no.2. That bank guarantee will also have to be returned to applicant no.2 so as to be presented to the concerned Bank for cancellation. Shri Kaka confirms the said statement of the applicants. The learned Registrar of this Court is therefore, directed to return the said bank guarantee to applicant no.2 i.e. Gopi Bagai, daughter of the deceased petitioner Surendranath Bagai.

7 The learned Advocate for the applicants further submits that an amount of Rs.3,000/- per month has been deposited in this Court since 2001 till March 2022. The said amount has not been withdrawn by the respondent. The said amount along with accrued interest be returned to the applicants.

8 Shri Kaka who has a difficulty with his microphone, while addressing the Court, was asked to confirm the statement of the learned Advocate for the applicants. He confirms the said statement by nodding his head and by his hand gestures, he indicated that the amount may be returned to the applicants. This was confirmed twice. As such, applicant no.2 is at liberty to file an application, duly identified by the learned Advocate, for withdrawal of the said amount along with accrued interest.

9 By the consent of the applicants and Shri Kaka, two Writ Petitions bearing No.4169/00 and 3178/00 which are not on board today, are called for and taken on the cause list. Shri Kaka submits that these two Writ Petitions can be disposed off as withdrawn as they emerge from the litigation between the parties which has now been brought to a complete end.

10 As such, all these three petitions are disposed off, in view of the above and 'X-1'.

11 Rule in all these three petitions is discharged.

RAVINDRA V. GHUGE, J