

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6580 OF 2022

M/s. R.J.Trade Links _ Vs. ___ Prakash Motilal Khatri and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.R.Srivastava, Advocate for petitioner
Mr. P.S.Raut, Advocate for respondent Nos.1 to. 3

CORAM : AVINASH G. GHAROTE, J.
DATE : 19/10/2022

1] At the outset Mr. Srivastava, learned counsel for the petitioner seeks to delete Respondent No.4, as according to him, Respondent No.4 is merely a proforma party being a co-defendant along with the petitioner in the suit and no relief in the present petition is sought against it.

2] The statement is accepted.

3] The Respondent No.4 is deleted at the risk and consequences of the petitioner.

4] Heard Mr. Shrivastava, learned counsel for the petitioner and Mr. Raut, learned counsel for the respondent Nos. 1 to 3.

5] The petition challenges the order dated 20.7.2022 passed by the learned District Judge-2,

Amravati, whereby the judgment and decree of eviction and damages dated 14.3.2022 in Special Civil Suit No. 323/2021 has been stayed, subject to the petitioner depositing an amount of ₹.13,65,353/- as mentioned in Clause 3 of the judgment impugned therein along with ₹.80,000/- per month towards monthly charges. A further direction is to deposit monthly charges of ₹.80,000/- on or before 10th of each calendar month during the pendency of the appeal.

6] Mr. Srivastava, learned counsel for the petitioner, does not dispute the imposition of ₹.80,000/- per month as occupation charges as per clause 3 of the impugned order dated 20.7.2022. It is his contention that during the pandemic period there was settlement between the petitioner and the land owner in view of which the license fee and other charges payable for occupation of the premises in question were reduced as per the chart at page 83, which position is disputed by the landlord.

7] The learned trial Court has decreed the suit filed by the landlord, however, what is material to note is that the decree has been passed exparte. After the impugned order, the petitioner has deposited a sum of ₹.7,00,000/- in the trial Court, which position is not disputed by Mr. Raut, learned counsel for the respondents. It is also not disputed that the sum of

₹.1,60,000/- has also been deposited by the petitioner before the trial Court, consequent to the impugned order. Thus, a sum of ₹.8,60,000/- stands deposited in the trial Court in pursuance to operative para 1 of the impugned order and the petitioner is willing to give a bank guarantee of ₹.6,00,000/- to secure the balance of the amount payable under operative para 1 of the impugned order. That in my considered opinion takes care of the position regarding the implementation of the impugned order, in view of which the petition is partly allowed. The impugned order dated 20.7.2022 is hereby modified by permitting the petitioner to furnish a bank guarantee of ₹.6,00,000/- to secure the balance out of ₹.13,65,353/- as per para 1 of the impugned order. Rest of the order stays as it is.

8] The respondent Nos. 1 to 3 are also permitted to withdraw the sum of ₹.8,60,000/- which already stands deposited by the petitioner in the trial Court.

9] Petition is disposed of in above terms. No costs.

JUDGE

Rvjalit

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 19.10.2022 17:10