

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.496 OF 2023

Prabodh Prakash Shenai ...Petitioner
through POA Prakash Raghunath
Shenai

V/s.

Haridas Bakaram Kakade ...Respondent

BHALCHANDRA
GOPAL
DUSANE

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BHALCHANDRA
GOPAL DUSANE
Date: 2023.01.16
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Mr. Prakash Raghunath Shenai, Petitioner present.

CORAM: MADHAV J. JAMDAR, J.
DATE: 13th JANUARY, 2023

P.C.:

- 1.** Heard Mr. Prakash Raghunath Shenai, the Petitioner who is appearing in-person.
- 2.** The impugned order is dated 5th December, 2022 passed by the learned Judge, Court of Small Causes at Mumbai (Bandra Branch), below Exhibit-1 in R.A.D. Suit No. 120 of 2014. By the impugned order, the learned Judge of the Court of Small Causes directed the Plaintiff i.e. the Petitioner to comply with the common order passed below Exhibit Nos.56 and 58 by depositing the entire arrears in Court on or before next date without fail, otherwise the Suit will be disposed of accordingly.

3. Perusal of the impugned order dated 5th December, 2022 shows that by the order dated 15th November 2018 passed below Exhibit Nos. 56 and 58, the learned Judge of the Court of Small Causes directed the Plaintiff to deposit the arrears of compensation at the rate of Rs.36,000/- per month from 1st June, 2014 till the vacant possession of suit premises was handed over to the Defendant, within one month, failing which the Suit was liable to be dismissed under Order XXXIX, Rule 11 of Code of Civil Procedure, 1908.

4. The said order was challenged by the Plaintiff in this Court by filing Writ Petition No. 4930 of 2017, however, the said Writ Petition was rejected.

5. The S.L.P. challenging the said order was also dismissed. Therefore, it is clear that the order 15th November, 2018 passed below Exhibit Nos. 56 and 58 has attained finality.

6. By the impugned order, the learned Judge has directed the Plaintiff to comply with the said order passed below Exhibit Nos. 56 and 58, which has been confirmed upto the Supreme Court. Therefore, there is no illegality or irregularity in passing the impugned order.

7. However, at this stage the Petitioner states that the next date in the R.A.D. Suit No. 120 of 2014 is on 19th January, 2023.

The Petitioner states that if some time is given, he will comply with the order passed below Exhibit Nos. 56 and 58.

8. In view of above submission, although I am not inclined to interfere in the impugned order, the learned Judge, Court of Small Causes, Mumbai is requested to adjourn the Suit till 20th February, 2023.

9. Subject to above, the Writ Petition is dismissed with no order as to costs.

(MADHAV J. JAMDAR, J.)