

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 139 OF 2023
WITH
INTERIM APPLICATION NO. 12713 OF 2023
IN
CIVIL REVISION APPLICATION NO. 139 OF 2023

Jyoti Chhaganlal Paneri	...Applicant
Versus	
Edwin A D'souza	...Respondent

WITH
CIVIL REVISION APPLICATION NO. 265 OF 2023
WITH
INTERIM APPLICATION NO. 7820 OF 2023
WITH
INTERIM APPLICATION NO. 7815 OF 2023
IN
CIVIL REVISION APPLICATION NO. 265 OF 2023

Prafulata Prakash Dhuri	...Applicant
Versus	
Edwin A D'souza	...Respondent

Mr. Girin Pandit with Arun H. Mehta, Minal Parab, Aniket Srivastav
i/b. Akshar Laws, for the Applicant.
Ms. V. C. Narvekar for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATED : 26th SEPTEMBER, 2023

P.C.:

INTERIM APPLICATION NO. 12713 OF 2023

1. After the matter was argued for some time. Mr. Pandit, learned advocate for the Applicant in Civil Revision Application No.139 of 2023 states that on instructions of his client who is present in Court, he is ready to withdraw the Civil Revision Application, if his client who is aged 75 years is allowed to reside in the Suit premises, during her lifetime.

2. Ms.Narvekar, the learned advocate for the Respondent/ Original Plaintiff, on instructions of her client states that if the Applicant is allowed to stay in the suit premises till her lifetime, her client would have no objection, subject to she filing an undertaking to this Court that suit premises would be given back to her client after the life-time of the Applicant and during the period of stay of the Applicant she has to undertake that she would pay the outstanding monthly compensation cost fixed by the Appellate Court every month which amount is Rs.5,000/- per month. The learned advocate for the Respondent/Original Plaintiff has stated that only on the ground of mercy her client is giving this liberty to the Applicant. She further states that she has not argued the matter on merits. She states that concurrent finding of both the Court on the ground of bonafide requirement and the liberty her client has given in this matter, is only for this matter and will not be applicable to any other proceedings, as the liberty is given on ground of mercy.

3. In view of the same, this Civil Revision Application is disposed of on following conditions.

4. The impugned judgment and order passed by the Appellate Court is hereby confirmed and modified only to the extent that the Applicant would be allowed to stay in the suit premises during her lifetime on the conditions that within a period of two weeks from today she would be filing usual undertaking, wherein she would mention that no other person is residing in the suit premises apart from her; she will not create any third party interest in the suit premises; she would also regularly pay the monthly compensation fixed by the Appellate Court i.e. Rs.5,000/- per month and also clear the outstanding amount of arrears of compensation within a period of eight weeks from today.

5. The only legal heir of the Applicant that is her son Mr. Shyamal Chhaganlal Paneri will also file undertaking that he is not residing in the suit premises and he does not claim any interest in the suit premises.

6. At the request of the learned advocate for the Respondent/Original Plaintiff, liberty is granted to Respondent/Original Plaintiff to withdraw the amount deposited by the Applicant by way of compensation in the Small Causes Court in RAE Suit No.13/14 of 2002. So also, the Respondent-landlord has permission to withdraw further deposits made by the Applicant in the Court of Small Causes.

7. In case the Applicant and/or her son namely Mr. Shyamal Chhaganlal Paneri fails to file undertaking within a

period of two weeks from today, liberty granted to the Applicant on reside in the Suit premises till her lifetime will automatically stand rejected without further reference to this Court.

8. In case, she does not deposit the arrears within a period of eight weeks from today and further makes a default of three consecutive payment of monthly compensation of Rs.5,000 per month even in that situation, liberty granted by this Court for allowing her to reside in the suit premises till her lifetime will be rejected. In such situation, Respondent-landlord can proceed with the execution application.

9. All the parties to act on an authenticated copy of this order. Issuance of certified copy of the order is expedited.

CIVIL REVISION APPLICATION NO. 265 OF 2023

1. The learned advocate for the Applicant states that the Applicant has recently died and he requires some time to bring on record the legal heirs of the deceased Applicant.

2. Stand over to 25th October 2023.

(RAJESH S. PATIL, J.)

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