

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.88 OF 2023
IN
WRIT PETITION NO.12423 OF 2023

APSARA BAKERS THRO. PARTNER
AND ANR

...PETITIONERS

V/s.

ANWAR KHAN AHMEDKHAN SINCE
DECD. THR LEGAL HERIS AND ANR

...RESPONDENTS

Mr. Kalim Ansari for the Petitioner in RPW/88/2023.
Mr. Suhas Rohile h/g. Mr.Abhaykumar Apte for the Petitioner.
Mr. A. R. Shaikh for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATED : 30th NOVEMBER, 2023

P.C.:

1. This Review Petition is filed challenging the order dated 10 October 2023 passed by this Court, in a Writ Petition which challenged an eviction decree on concurrent findings recorded on the ground of bonafide requirement and non-user.

2. This Court by its order dated 10 October 2023 had disposed of Writ Petition as the Petitioner No.2(c) Javed Ansari was present in the Court, had sought liberty to withdraw the Writ Petition. And further more he had also had prayed to grant a

period of one year to vacate the suit premises.

3. In the earlier round of litigation interim monthly compensation was fixed at the rate of Rs.12,000/- per month. As per the order passed on 23 March 2023 in Writ Petition No.1024 of 2020, the outstanding amount as of August 2023 was Rs.5,23,000/-. Admittedly, this amount has not been paid by the Petitioner/Tenant.

4. As the Petitioner was withdrawing the Writ Petition a time of one year was granted to the Petitioner to vacate the suit premises and hand over the possession to the respondent subject to filing of the usual undertaking within a period of two week from today.

5. Mr. Ansari submits that his client did not file the undertaking as his client were under the impression that stay has been granted by this Court.

6. Mr. Ansari submits that there are no allegations against the previous lawyer who appeared in the original Writ Petition. It was a matter of only miscommunication between the Petitioner and the earlier advocate.

7. It appears that the present Review Petition has been filed by Respondent No.2(c) on 21 October 2023, on the grounds which reads as under :-

“(a)It is submitted that the Order dated 10.10.2023 was passed due to miscommunication between him and his advocate and the same requires being set aside and the present Petitioner may be given an opportunity of hearing the Writ Petition on merits.

(b) It is submitted that the Advocate for the Petitioner has suppressed some important material facts and some are required to be place on record.”

8. I have heard counsel for the Applicant. He had sought time of 10 years to vacate the suit premises since according to his instruction his clients were not able to use the suit premises from the date of the filing of the suit till today. Mr. Ansari could not show any grounds as per Order 47 Rule 1 of the Code of Civil Procedure, 1908 (for short ‘CPC’) to consider this Review Petition.

9. According to me, this Review Petition is grave abuse of process of law therefore, the Review Petition is dismissed as it is not making out any case as contemplated under Order 47 Rule 1 of the CPC.

10. At this stage, advocate for the Petitioner states that he wants to challenge the order passed in Writ Petition No.12423 of 2023 by filing an SLP in the Supreme Court. Therefore, he seeks stay to the implementation of order passed on 10 October 2023 and the order passed today. The same request is rejected.

(RAJESH S. PATIL, J.)