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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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INTERIM APPLICATION NO.14387 OF 2023

IN

WRIT PETITION NO.14372 OF 2018

Umesh C. Tiwari

...Applicant

IN THE MATTER BETWEEN :

Gaurav Saxena

...Petitioner

V/s.

Umesh C. Tiwari & Ors.

...Respondents

Mr.Brijesh Shukla with Ms.Siddhi Mahambre and Mr.Harshil Gandhi for the Applicant.

Mr.Sudhir Sadavarte for the Petitioner.

Mr.P.P. Pujari, AGP for the State - Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 9TH JANUARY, 2024.

P.C. :-

1. This Interim Application is filed by the Original lessor.

This Interim Application seeks withdrawal of the amount of

Rs.2,25,000/- deposited by the lessee (Petitioner) pursuant to

the directions given by this Court on 10 October 2019.

2. For ease of reference, the order dated 10 October 2019 is reproduced herein below :-

“1. The petitioner’s counsel fairly submits that there is a dispute about the quantum of damages/rent due from the petitioner to the respondents-landlord. He submits that the admitted amount comes to Rs.2,25,000/-.

2. *Status quo* in relation to the recovery of rent/damages shall be maintained subject to the petitioner’s depositing Rs.2,25,000/-, the admitted amount, with the Registry in 4 weeks. If petitioner fails to deposit the amount in 4 weeks, the stay stands vacated without further reference to this Court.”

3. According to the Respondent (lessor) as per the impugned order, the amount payable by the lessee till the date of handing over possession i.e. 25 May 2019, would be Rs.5,23,600/-. Mr.Shukla, advocate appearing for the Applicant (Umesh Chandra Tiwari) submits that however on 10 October 2019, as the sum of Rs.2,25,000/- was admitted by the Petitioner, the Writ Petition was admitted. Mr.Shukla further submits that in such a situation, if the amount less than 50% is

deposited in this Court, the Respondent / lessor should be allowed to withdraw the said amount with accrued interest.

4. After hearing both the sides, I am of the view that suffice will be the purpose if the Applicant (Umesh Chandra Tiwari) is allowed to withdraw the said sum of Rs.2,25,000/- deposited in this Court along with accrued interest thereon.

5. Before withdrawal of the said amount, the Applicant (Umesh Chandra Tiwari) should file an undertaking before this Court within a period of one week from today that in case after hearing the Writ Petition, the Writ Petition is answered against the Applicant Umesh Chandra Tiwari), the Applicant will comply with the directions given by this Court.

6. The Interim Application is accordingly disposed of.

7. All parties to act on the authenticated copy of this order.

WITH
WRIT PETITION NO.14372 OF 2018

1. Both the parties agree that the Writ Petition can be disposed of, since small issue is involved in this matter.

2. Place the Writ Petition on board for hearing and final disposal on 8 February 2024, at 2:30 p.m.

3. The parties agree to file a compilation of documents, short synopsis along with their preposition of law and authorities relied upon by them before the next date of hearing.

(RAJESH S. PATIL, J.)