

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11010 OF 2022

Kohinoor Agency

... Petitioner

Vs.

Surekha Dnyaneshwar Chavan and ors

... Respondents

Mr. Kishor S. Patil for the Petitioner.

Mr. Drupad S. Patil for the Respondents.

CORAM : RAJESH S. PATIL, J.

DATE : 20th MARCH, 2024

P. C. :

1. This Writ Petition challenges the order dated 27th July, 2022 passed by the District Court, Pune in Misc. Civil Appeal No.116 of 2022 thereby setting aside the order below Exhibit 5 in Civil Suit No.206 of 2021 passed by the trial Court on 4th March, 2022.

2. By the order below Exhibit 5, the defendants / landlord was restrained from carrying out any construction activity on property bearing Final Plot No.335-B, Shanivar Peth, Pune till the disposal of the Suit.

3. Mr. Drupad Patil, learned counsel appearing for the landlord submits that the construction activity on the Suit property has been completed till the first floor and the

construction on the second floor is in progress. He submits that there is no point in passing an injunction against the landlord in an on going construction activity.

4. Mr. Kishor Patil appearing on behalf of the tenant submits that the rented area was ad-measuring 1600 square feet. He submits that even though the Suit property has been demolished, the tenancy right of the tenant would always continue. He submits that even though the eviction decree was passed against the tenant, the tenant has already filed a Civil Appeal before the District Court, Pune being Civil Appeal No.23 of 2017. He further submits that until the Suit premises was demolished, an amount of Rs.30,000/- per month was deposited in the Appellate Court by way of compensation. He submits that since the Suit property has been demolished and the tenant was not enjoying the Suit premises, there will be no question of the tenant to deposit any amount.

5. Suffice it would serve the purpose, if the landlord completes the construction and obtains the occupancy certificate of the Suit building, and further in order to protect the right of the tenant, the landlord would reserve the construction portion of the commercial premises which can be used as godown ad-measuring 1600 square feet till the hearing and disposal of Civil Appeal No.23 of 2017. This arrangement would be without prejudice to the rights and contentions of both the parties.

6. In view of the above, the District Judge, Pune is directed to expedite the hearing of Civil Appeal No. 23 of 2017 and make an endeavor to dispose of the Civil Appeal within a period of one year from today.

7. In view of the directions given above, the present Writ Petition is disposed of.

(RAJESH S. PATIL, J.)