

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 517 OF 2024

Anil Kalyanji Visaria

.. Petitioner

Versus

LIC of India & Ors.

.. Respondents

-
- Mr. Avinash H. Fatangare for Petitioner
 - Mr. K.N. Kandekar for Respondents
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 06, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 06.02.2024. Heard Mr. Fatangare, learned Advocate for Petitioner and Mr. Kandekar, learned Advocate for Respondents.
3. Mr. Fatangare appears for the occupant / tenant in the proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short "**the said Act**"). There are two concurrent orders; one passed by the Estate Officer and the second passed by the Appeal Court under Section 9 of the said Act. Both the orders are reasoned orders after the trial.
4. Mr. Kandekar appears for LIC. He would submit that both the orders are reasoned orders. Challenge to these orders is maintainable

by way of Writ Petition under Articles 226 and 227 of the Constitution of India which has been filed by the Petitioner.

5. There is ambiguity in respect of possession. Both the learned Advocates would claim that possession of the suit premises is with their respective clients. At this stage, I need not enter into that controversy as Mr. Fatangare has placed before me a notice of demand issued by Tahsildar under Section 267 of the Maharashtra Land Revenue Code, 1966 calling upon the Petitioner to pay the sum of Rs. 98,77,420/- failing which further steps shall be taken for recovery of the said dues by attachment and sale of the movable property as also other properties for satisfaction of the said demand. This clearly necessitates that there is an order for damages also in the present case. Certificate issued under Section 14 of the said Act in Form "I" appended to the notice of demand reveals that there is an order for recovery of 66,34,752/- and compound interest @ 9% per annum is leviable on the said demand for the period 01.09.2015 to 31.10.2022 of Rs. 32,42,668/-.

6. Considering the above, I have impressed upon Mr. Fatangare to take appropriate instructions and deposit at least an amount of Rs. 25,00,000/- to show Petitioner's bonafides. Mr. Fatangare after taking instructions would submit that the aforesaid amount of Rs. 25 Lacs shall be deposited within a period of eight weeks from today. It is

clarified that no extension of time shall be granted by this Court for deposit of the aforesaid amount. Needless to state that if the said deposit is made, Respondents shall be at liberty to seek withdrawal of the same by filing an appropriate Application which shall only be allowed after hearing the Petitioner. Mr. Fatangare has raised one more grievance and that pertains to the computation and calculation of the amount of damages. He would submit that computation of damages is on the basis of aggravated and inflated market value @ Rs. 336/- per sq. ft. when according to the valuation report submitted by the learned Valuer of the Respondent itself it has been computed @ Rs. 77/- per sq.ft. in some other proceedings, rather in respect of an adjacent property.

7. In response to the above submissions, Mr. Kandekar would submit that the impugned orders are well reasoned orders passed by the Court after a lengthy trial wherein the valuer of LIC has been thoroughly examined. He would therefore submit that the amount of damages has been correctly computed. This issue shall be considered later.

8. Be that as it may, subject to directions given in this order, on deposit of the above stated amount, further orders shall be passed in the Petition after hearing the parties on the next adjourned date. Contention of Mr. Kandekar that possession has already been

recovered shall also be considered by the Court since the same is refuted by the Petitioner.

9. Stand over to **2nd April, 2024**. In the meanwhile, there shall be ad-interim relief in terms of prayer clause (c).

Amberkar

[MILIND N. JADHAV, J.]

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signed by
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