

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14293 OF 2024
IN
WRIT PETITION NO. 12735 OF 2024.

Harbell Hotels Pvt. Ltd. ...Applicant

In the matter between :

Shri. Nawab Nazish Ali Khan ...Petitioner

Versus

M/s. Herbal Hotels Pvt. Ltd. and Others ...Respondents.

Mr. Ashok B. Tajane for the Petitioner.

*Mr. G.S. Godbole, Senior Advocate a/w Pramod Patil, Shyamsunder Solanki,
Sufiya Siddiqui i/by PNP & Associates for Respondent No.1/Applicant.*

Smt. V.R. Raje, AGP for Respondent No.4.

Coram : Sharmila U. Deshmukh, J.

Date : November 11, 2024.

P. C. :

1. Interim Application No. 14293 of 2024 has been preferred seeking vacating of *ex parte* stay granted by the order dated 24th September, 2024, by this Court and the subsequent continuation of Ad interim relief.

2. Mr. Godbole, learned Senior Advocate appearing for the Applicant would submit that by the order of 24th September, 2024, the impugned order was stayed, however, prior thereto, the impugned

order was already executed and the name of the Applicant was already entered in the Property Card as a lessee on 8th July, 2024.

3. Mr. Godbole, would further submit that by reason of the *ex parte* stay granted, the authorities are not proceeding further in the matter. He would further submit that the application for conversion of property from leasehold to occupancy Class-I has been granted and time to make payment has been extended only upto 15th November, 2024.

4. Mr. Tajane, learned counsel appearing for the original petitioner would submit that after hearing the petitioner, this Court had passed the order staying the impugned order. He submits that the other Respondents, apart from the present applicant are also required to be served as they are claiming right in the said property.

5. Considering that prior to order dated 24th September, 2024, the impugned order was already executed, there is no question of the order being stayed. From the perusal of the order dated 24nd September, 2024, this Court does not find the recording of the fact of the execution of the impugned order.

6. As the order was already executed prior to passing of the order dated 24th September, 2024 and the Applicant is required to make the payment for conversion from leasehold rights to occupancy Class-I on or before 15th November, 2024, the authorities are directed to permit

the applicants to make the said payment.

7. By an Order dated 24th September, 2024, this Court has issued notices to the Respondents and the office noting indicates that the service report is awaited.

8. Learned counsel for the petitioner has filed an Affidavit of Service which indicates that the Respondent Nos.11, 12, 19 and 20 have not been served. Registry is directed to ensure that the service report is placed on record before the next date.

9. Stand over to **4th December, 2024.**

[Sharmila U. Deshmukh, J.]