



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAW) NO.1413/2024
IN
WRIT PETITION NO.698/2023 (D)

Smt. Chandrakala wd/o Sahebrao Dhone and others
...Versus...
Smt. Sunanda w/o Bhujangrao Mohod and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. R.G. Kavimandan, Advocate for applicants/petitioners
Mrs. Naina Dhoke, Advocate h/f Mr. M.V. Rai, Advocate for respondents

CORAM : AVINASH G. GHAROTE, J.
DATE : 09/08/2024

1. The application seeks modification of the order dated 12/12/2023, by which the stay against the decree for eviction and possession, dated 29/04/2021 was granted by this Court, subject to the condition of deposit of Rs.2,00,000/- per year with the learned Appellate Court during the pendency of the appeal.

2. Mr. Kavimandan, learned counsel for the applicants, submits that the special leave petition filed against the order dated 12/12/2023 has been dismissed. He submits that on account of the medical emergency in the family of the applicants the condition has become onerous and is required to be relaxed.

3. It is not in dispute that the condition was imposed for the purpose of enabling the applicants to continue in occupation of the premises in question, in respect of which, a decree of eviction has been passed by the learned Trial Court on 29/04/2021 and therefore, is a condition for stay of the eviction. It is an admitted position that the applicants, continue with the occupation of the premises in question even today on account of which, the landlord has been deprived of the benefit and use of the same, in spite of having a decree in his favour. The condition imposed, in practicality amounts to a sum of Rs.16,666/- per month, which cannot be said to be an onerous sum considering that the land is agricultural and is being utilized by the applicants for agricultural cultivation even today.

4. I, therefore, do not see any reason made out to relax the condition, as the applicants continue to make use of the agricultural land by cultivating it.

5. The civil application is rejected. No order as to costs.

(AVINASH G. GHAROTE, J.)