

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.505 OF 2025

Krishnabai Haresh Kewlany	...Petitioner
<i>Versus</i>	
Hemant Amarchand Chhadva	
Partner of M/s. Bright Enterprises & Ors.	...Respondents

Mr. A. A. Siddiquie a/w. Mr. Moin Chowdhari i/b. A. A. Siddiquie & Associates, for the Petitioner.
Mr. Manoj Harit a/w. Mr. Niket Harit i/b. Manoj Harit & Co., for the Respondent No.1.
Mr. Hamid Mulla, AGP, for the Respondent No.4-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 25th MARCH 2025

P. C.:

1. Heard Mr. Siddiquie, learned Counsel appearing for the Petitioner, Mr. Harit, learned Counsel appearing for the Respondent No.1 and Mr. Mulla, learned AGP appearing for the Respondent No.4-State.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the order dated 27th November 2024 passed by the learned Judge, Small Causes Court,

Mumbai below Exhibit-15 in Execution Application No.414 of 2024 in L.E. & C. Suit No.43 of 2022.

3. Perusal of the record shows that the learned Judge, Small Causes Court, Mumbai by order dated 14th February 2024 passed in L.E. & C Suit No.43 of 2022 directed the eviction of the Petitioner from the suit premises and also further directed payment of amount of Rs.50,59,125/-. The operative part of the said order dated 14th February 2024 reads as under:

“OPERATIVE ORDER

1. The suit is decreed with costs.

*2. Defendants or anybody claiming on their behalf or through them; shall deliver vacant and peaceful possession of the **Shop no. 3 and 4**, admeasuring 600 sq.ft. carpet area, Bright Enterprise, CTS no. 1722, 1722/1, R. C. Marg, Chembur, Mumbai – 400 074; which is more particularly described in plaint paragraph no. 1, within **TWO MONTHS** from today.*

*3. Defendant shall pay an amount of ₹ 50,59,125/- [In words Rupees Fifty Lakh Fifty Nine Thousand One Hundred Twenty Five only] to plaintiff within **TWO MONTHS** from today, details and breakup of which are mentioned in the paragraph no. of this judgment.*

4. Defendant shall also pay simple interest to plaintiff, on amount of ₹ 50,59,125/- @ 9% per annum from 14.04.2024 till realization of the amount.

5. Plaintiff may file separate inquiry to quantify mesne profit, for the period from expiry of time given to hand over possession, i.e. after two months of date of decree of suit till receipt of possession of the said premises; in view of Order XX Rule 12 (c) of Code of Civil Procedure, 1908.

6. Decree be drawn accordingly.

Declared in open Court, today on 14th February 2024.”

4. By the impugned order dated 27th November 2024 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-15 in Execution Application No.414 of 2024 in L.E. & C. Suit No.43 of 2022, possession warrant has been issued and notice has been issued calling upon the Judgment Debtor i.e. the present Petitioner to submit her affidavit disclosing about the assets as required under Order XXI Rule 41 of Code of Civil Procedure, 1908.

5. It is the contention of Mr. Siddiquie, learned Counsel appearing for the Petitioner that the said order dated 14th February 2024 passed in L.E. & C. Suit No.43 of 2022 by which eviction decree has been passed is obtained by not disclosing the relevant documents. In effect, the Petitioner is aggrieved by the order dated 14th February 2024 passed in said suit. The impugned order has

been passed in execution proceedings. It is settled legal position that the executing Court cannot go behind the decree.

6. Accordingly, no interference in the impugned order is warranted under the jurisdiction of this Court under Article 227 of the Constitution of India.

7. As far as the contention which the learned Counsel appearing for the Petitioner has raised, the Petitioner is at liberty to adopt appropriate proceedings in accordance with law.

8. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]

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