

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3470 OF 2025

New Nalanda CHSL

...Petitioner

Versus

Kapadia Development CHSL

...Respondent

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Mr. Ashraf Kapoor i/b Mohammed Zain Khan, for the Petitioner.

CORAM: MADHAV J. JAMDAR, J.
DATED: 12 MARCH 2025

P.C.:

1. By the present Writ Petition filed under Article 227 of the Constitution of India the challenge is to the legality and validity of the Order dated 4th March 2025 passed in Execution Application No.282 of 2021, by which the warrant of possession is reissued.
2. Perusal of the record shows that a learned Single Judge by Order dated 3rd October 2024 passed in Writ Petition No.10751 of 2023 along with Writ Petition No.10680 of 2023 disposed of, both these Writ Petitions by fixing quantum of interim compensation payable in respect of the suit property at the rate of Rs.1,50,000/- per month from the date of decree i.e. 8th September 2021 till disposal of the Appeal.
3. The said Order was challenged before the Supreme Court and the Supreme Court dismissed the SLP by Order dated 27th January 2025,

however, granted two weeks time to deposit the said amount as a last chance. The said two weeks time was over on 11th February 2025. Therefore, the learned Executing Court issued possession warrant by Order dated 4th March 2025.

4. The factual position on record clearly shows that the learned Executing Court has not committed any illegality or irregularity in passing the impugned Order.

5. However, the Supreme Court passed the following Order on 7th March 2025 :-

“1. This application has been filed by the applicant-petitioner seeking modification of the order dated 27.01.2025, praying therein to extend the time by one week for depositing the amount of interim compensation.

*2. For the reasons stated in the application, **the time to deposit the interim compensation, as directed, is extended till 12.03.2025, subject to the petitioner also depositing Rupees one lakh for the delayed payment, on or before 12.03.2025.***

3. The miscellaneous application along with the interlocutory application (IA No.58168/2025) stand disposed of accordingly.”

(Emphasis added)

6. Mr. Ashraf Kapoor, learned Counsel for the Petitioner states that accordingly the said Order of the Supreme Court dated 7th March 2025 has been complied with.

7. Thus, it is apparent that the said Order of the learned Single Judge passed on 3rd October 2024 in Writ Petition No.10751 of 2023

along with Writ Petition No.10680 of 2023 as modified by the said Order dated 27th January 2025 and the Order dated 7th March 2025 is complied with. Thus, the Order dated 4th March 2025 issuing warrant possession will not survive and therefore the said Order is set aside and the Writ Petition is disposed of accordingly.

8. It is made clear that, the Order is set aside on the basis of the Order passed by the Supreme Court and accordingly no notice has been given to the Respondent. However, if the Respondent is aggrieved by this Order, then the Respondent can file an appropriate Application for recall of this Order.

9. Accordingly, the Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]