



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

Writ Petition No.7317/2024
Khujama V Smt. Shobha and others

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

Court's or Judge's orders

Mr. S.B. Mohta, Advocate for petitioner.
Mr. C. Deopujari, Advocate for resp. nos.1 to 4.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 08-12-2025.

Heard learned Counsel for the petitioner as well as learned Counsel for the respondents.

2. Petitioner's challenge is to order dated 15-10-2024 passed by the appellate Court on the application for grant of stay to the execution of the judgment and decree which is granted subject to deposit of Rs.33,500/- per month towards compensation amount.

3. Petitioner is a tenant who has suffered a decree of eviction passed in Regular Civil Suit No.290/2011 by the Small Causes Court, Nagpur and has assailed the said decree vide Regular Civil Appeal No.244/2023. The petitioner has filed an application at Exhibit-04 seeking stay to the execution of the judgment and decree which is rejected. This order is subjected to challenge by way of instant petition.

4. Learned Counsel for the petitioner primarily submits that the impugned order is unsustainable in view of the undisputed fact that the arguments on the application for stay at Exhibit-04 were advanced by both the parties on 11-03-2024 and the final order was passed on the said application on 15-10-2024 i.e after seven months from the date of

arguments were heard. He submits that the impugned order deserves to be quashed only on this Court. In support of his submissions he relies on the judgment of Coordinate Bench of this count in the matter of *Pradeep K.R. Sangodker vs State of Goa*, reported in *2007 (supp.) Bom.C.R. 544*, and by referring to paragraph 9(iii) he submits that since the application was not decided within a period of two months from the date of conclusion of arguments, the impugned order is unsustainable on that Count. In this regard, learned Counsel for the respondents does not dispute the position that the arguments on the said application were heard on 11-03-2024 and after seven months the order dated 15-10-2024 was passed.

5. It has to be seen that while issuing notices in this petition, by order dated 18-12-2024, this Court had granted interim relief subject to the petitioner depositing an amount of Rs.20,000/-per month instead of Rs. 33,500/- per month towards compensation charges. Learned Counsel for the respondents submits that the petitioner is in arrears even of this amount and the amount after the month of May, 2025 is not yet deposited.

6. Although contentions are advanced on other aspects, having regard to the primary submissions advanced by the petitioner that the impugned order is passed by the appellate Court after a period of seven months after the arguments were heard, the matter needs to be remanded to the appellate Court for considering the application at Exhibit-04 afresh. However, having regard to the fact that the interim relief was granted subject to the petitioner depositing an amount of Rs.20,000/- per month, I am of the opinion that the petitioner needs to continue to deposit the

amount of Rs.20,000/-per month during pendency of the appeal. It is also pointed out by both the parties that paper book is already filed and Regular Civil Appeal No.244/2023 is pending for final hearing.

7. In view of this, following order is passed:-

(a) Order dated 15-10-2024 passed by the appellate Court on application for stay at Exhibit-04 is quashed and set aside and the matter is remitted back to the appellate Court for deciding the application afresh after giving an opportunity of hearing to both the parties.

(b) The petitioner is directed to continue to deposit amount of Rs. 20,000/- per month towards compensation amount in the Court on or before 10th day of each month during the pendency of the appeal.

(c) The appellate Court is directed to finally hear and decide Regular Civil Appeal No.244/2023 within a period of three months from today.

(d) Petitioner is directed to clear the arrears as per the interim order dated 18-12-2024 i.e at the rate of Rs. 20,000/- per month before he makes the final arguments in the appeal. It is clarified that the appellate Court is entitled to independently decide the amount of quantum of compensation, while deciding the appeal finally, if need arises.

8. Writ petition is accordingly disposed of.

(Prafulla S. Khubalkar, J.)