

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2921 OF 2014
IN
WRIT PETITION NO. 6220 OF 2004**

Jagdish Gopinath Malushte

..Applicant

Vs.

Santosh @ Balu Dattatraya Bhosale & Ors.

..Respondents

Mr. Kunal Bhanage a/w Mr. Vinay Bhorge i/b Utangale & Co. for the Applicant

Mr. Rakesh Bhatkat for the Respondents

CORAM : R. M. SAVANT, J.

DATE : 11th DECEMBER, 2015

P.C.

1 The above Civil Application has been filed inter alia for the relief that the Writ Petition be fixed for final hearing and that the Petitioner be directed to deposit arrears of rent from 20-4-1998 till date and he further directed to pay sum of Rs.18,000/- per month as enhanced rent / compensation until the Petition is heard finally.

2 The above Civil Application had come up for hearing before a Learned Single Judge of this Court on 8-9-2015. By an order passed on the said day the Respondents were directed to deposit compensation @ Rs.7,000/- per month w.e.f. 1-9-2015. The Learned Counsel for the Respondents Mr. Bhatkar states that the said part of the order dated 8-9-2015 has been complied with by

the Respondent. In so far as the fixing of the enhanced rent / compensation is concerned, affidavit in reply is tendered on behalf of the Respondents. The claim of Rs.18,000/- per month is disputed in the said affidavit in reply. The Learned Counsel for the Respondents seeks to rely upon the leave and licence agreement dated 25-6-2012 wherein the licence fees mentioned for premises of the same size near Maruti Mandir, in the vicinity of the suit premises is Rs.3000/-. It is the case of the Respondents that the premises are old and that the Respondents are themselves conducting the hair cutting saloon and do not have any employees. It is therefore their case that an amount of Rs.2000/- can be said to be the fair rent / compensation.

3 The Learned Counsel for the Applicants disputes the contention raised on behalf of the Respondents but ultimately leaves it to this Court.

4 In my view, having regard to the nature of the business being carried out i.e. the hair cutting saloon, the location wherein the premises are located and the present condition of the premises, it would be just and proper to fix the amount to Rs.3,500/- as interim compensation payable by the Respondents to the Applicants for continuing the use of the premises pending the above Writ Petition. The said amount would have to be deposited by the Respondents from January 2016 on or before the 10th of each month.

5 In so far as the relief of expeditious hearing is concerned, since the Petition is of the year 2004, the hearing of the same is expedited. The Petition be listed for final hearing in the week commencing from 25-1-2016. The Applicants would be at liberty to file an application for withdrawal of the amounts which are lying in deposit in the District Court Ratnagiri. Time to deposit the amount for December 2015 @ Rs.7000/- is extended by two weeks from date.

6 The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]