

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 638 OF 2014
IN
CIVIL REVISION APPLICATION NO. 1071 OF 2010

Pooja P. Kaulwar .. Applicant.
vs.
Bharat D. Patil .. Respondent

Mr. Amit M. Shete for the Applicant.
Mr. S.S. Shah for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 28 JULY 2015.

P.C. :-

1] This Court by order dated 23 October 2012 has granted interim relief restraining the eviction of the applicant in Civil Revision Application No. 1071 of 2010, subject to depositing in this Court an amount of Rs.1000/- per month towards reasonable compensation.

2] This is an application seeking withdrawal of the amounts including with interest so deposited and for vacating the stay granted on 23 October 2012.

3] The Apex Court in case of *State of Maharashtra & anr. Vs. M/s. Super Max International Pvt. Ltd. & Ors.*¹, has held that ordinarily, the landlord should not be permitted to withdraw the amount deposited towards reasonable compensation. However, if a case is made out warranting leave to withdraw, the landlord should be put to terms in the context of repayment of the amount, should the matter be decided in favour of the tenant.

4] In this case, the landlord has obtained a decree on the grounds of reasonable and *bona fide* requirement as also default in the payment of rent. The suit premises admeasure 21.5 sq.mtrs and are being used by the tenant for commercial purposes. It is the case of the applicant that for considerable period, i.e., from 1997, rents even at the contractual rate of Rs.120/- were not paid by the tenant to the landlord.

5] Upon cumulative considerations of all these circumstances, this is a fit case where the landlord can be permitted to withdraw the compensation amount, which is already deposited in this Court. This is of course, subject to the landlord's filing an undertaking to the effect that such amount will be brought back by the landlord

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within a period of four weeks from the date that there is a direction in this regard, together with such interest as this Court may determine.

6] Accordingly, if such undertaking is filed by the landlord, Registry to permit the landlord (applicant in the present Civil Application) to withdraw the amounts towards compensation already deposited by the respondent herein. Liberty to apply for further withdrawals. Such application will then be considered at that stage.

7] It is clarified that in case, the amounts deposited, have already been invested in Fixed Deposit, then the Registry is permitted to disinvest the same and permit the landlord to withdraw the amount including with interest.

8] Civil Application is disposed of.

(M. S. SONAK, J.)