

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 90 OF 2010

Shamsuddin A. Shaikh	..	Petitioner
VS.		
Faizannual H. Shamsi	..	Respondent

None for Petitioner.

Mr. Sandeep Mahadik i/b. Mr. Vinay Bbate for Respondent.

CORAM : M. S. SONAK, J.
DATE: 24 APRIL 2015

P.C. :-

1] This petition challenges order dated 9 October 2009 passed by the Division Bench, Court of small Causes at Mumbai, Bandra, below Exhibit '5' in Appeal No. 45 of 2009, to the extent, it directs the petitioner to pay compensation at the rate of Rs.7,000/- per month during the pendency of the appeal. There is no dispute that the Small Causes Court, has ordered eviction of the petitioner from the suit premises. In appeal, the Division Bench has granted interim relief, subject to payment of compensation at the rate of Rs.7,000/- per month, in doing so, the Division Bench has placed reliance upon the relevant material, which includes *inter alia* the valuation report. In the case of *Atma Ram Properties (P) Ltd. vs. Federal Motors Pvt. Ltd.*¹, the Hon'ble Supreme Court has held that once an eviction

¹ 2005 (3) Bom. C.R. 274

decree is passed, the same can be stayed by the appeal court. However, the appeal court can make appropriate directions for payment of compensation, which may be in excess of the contractual rate.

2] In view of the aforesaid, there is no jurisdictional error in making of the impugned order nor it can be said that there is any perversity in the approach. This petition is accordingly dismissed. There shall be no order as to costs.

3] The respondent to submit authenticated copy of this order before the Division Bench, hearing the appeal.

(M. S. SONAK, J.)