

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1390 OF 2015

Anusaya Laxman Marde & ors .. Petitioners
vs.
Jasmine Parvez Gimi & Jasmine
Nozer Irani & anr. .. Respondents

Mr. Suresh M. Sabrad for the Petitioner.
Mr. Prajakt M. Arjunwadkar for Respondent No.1.
Mr. Rajesh Datar for Respondent No.2.

CORAM : M. S. SONAK, J.
DATE : 02 SEPTEMBER 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] The challenge in this petition is to the condition imposed in the impugned order directing the petitioners to deposit an amount of Rs.3000/- each as a condition for stay upon execution of the eviction decree. There are in all 74 petitioners and this means that the direction is for deposit of an amount of Rs.2,22,000/- per month.

3] The suit premises in the present case is a Gala (open) admeasure 2400 sq. ft. Such Gala is used by 74 petitioners as Fish Market. There is material produced on record by the petitioners that the respondents-landlords in virtually adjacent premises have been

levying compensation in the range of Rs.100/- to Rs.150/- in respect of individual Galas. No doubt, the area of the individual Galas is much lower than the Gala with which we are presently concerned. However, it is to be noted that the suit premises though admeasure around 2400 sq.ft are being used by no less than 74 petitioners to sell fish from this area. The suit premises are situated in Dahanu Taluka. The learned counsel for the petitioners has made a submission that the petitioners are mainly small fish vendors from the area, which is otherwise an area comprising socially and economically backward community persons.

4] Taking into consideration of all the aforesaid circumstances, it would be appropriate if the amount of Rs.3000/- is reduced to Rs.1000/- per person. This would mean that for the suit premises which admeasure 2400 sq. ft., the compensation would be approximately Rs.74,000/- per month until the disposal of the appeal.

5] Accordingly, the impugned order is modified to the aforesaid extent. Rule is made absolute to the aforesaid extent only. Time for deposit of arrears, if not already deposited, is extended by four

weeks from today. The amount/compensation to be otherwise deposited on or before 5th day of each succeeding month.

6] Further, considering the submission of the learned counsel for the respondents in this matter, the eviction decree made against the original tenant has been confirmed right upto the Hon'ble Apex Court, it is only appropriate if the appeal instituted by the petitioners is disposed of, as expeditiously as possible and in any case, within a period of nine months from today.

7] This petition is disposed of in the aforesaid terms. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

CERTIFICATE

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by : Dinesh S. Sherla
Personal Assistant to the
Hon'ble Mr. Justice M.S. Sonak
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