

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 139 OF 2014
IN
CIVIL REVISION APPLICATION NO. 204 OF 2014

Smt. Bhagirathi V. Shetty .. Applicant
vs.
Ismail Abdeally Khambati & ors. .. Respondents

Mr. Mandar Limaye a/w. Ms Veera Shinde for the Applicant.
Mr. Akbar Ali Nashikwala for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 25 AUGUST 2015.

P.C. :-

1] In the Civil Revision Application, instituted by the tenant, the interim relief has been granted by staying the execution of the eviction decree.

2] Today, the matter has come up for determination of reasonable compensation, which the tenant should be required to deposit in this Court as a condition for interim relief.

3] Despite opportunity, the tenant has placed no materials on record in the matter of determination of reasonable compensation. On the other hand, the landlords-respondents has placed on record a Report prepared by the registered Valuer S.R. Paradkar. In the

Report, it is stated that the fair market rent in respect of the suit premises would be Rs.29,840/- per month.

4] In the present case, though the suit premises have built-up area of 222 sq. ft. and carpet area of 185 sq.ft. The same are situated on the ground floor and through which the tenant operates '*Vaibhav Hotel*'. According to the learned counsel for the landlords, the tenant has sub-let the suit premises. However, that is a matter to be decided at the stage of final hearing. The fact, however, remains that the suit premises are commercial premises situated at Lamington Road, Opp. Minerva Cinema. No doubt, the building in this case was constructed in or about the year 1950. As per the Report, the building is RCC framed structure, walls are of brick masonry, the suit premises have been provided with marble tiles, rolling shutter, there is common toilet as well as a lift. The suit premises, as noted earlier, are on the Lamington Road, Opp. Minerva Cinema and at a five minutes walking distance from Grant Road Railway Station. Taking into consideration of these circumstances, it would be appropriate if reasonable compensation is determined at Rs.20,000/- per month.

5] Accordingly, the tenant is directed to deposit in this Court reasonable compensation at the rate of Rs.20,000/- per month effective from 1 January 2014 (since the eviction decree is dated 9 December 2013). The arrears to be deposited within a period of twelve weeks from today. The compensation should be deposited on or before fifth day of each succeeding month. The deposit of such compensation shall be a condition for interim relief, which is hereby confirmed. In case, there is any default, the landlords shall be at liberty to apply for vacation of the interim relief. Further, the tenant is directed to file an affidavit-cum-undertaking to the effect that he continues to be in possession of the suit premises and that he shall not part with possession or create any third party rights therein. Such affidavit to be filed within two weeks from today alongwith advance copy to the learned counsel appearing for the landlords.

6] Civil Application is disposed of in the aforesaid terms.

(M. S. SONAK, J.)