

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1877 OF 2015
IN
WRIT PETITION NO. 5981 OF 2013

Mrs. Kaumudini C. Karandikar	..	Applicant
<u>In the matter between :</u>		
Shirish A. Khedekar	..	Petitioner
vs.		
Mrs. Kaumudini C. Karandikar	..	Respondent

Mr. R. V. Sankpal for Applicant / Original Respondent.
Mr. Samrat Shinde h/f. Mr. Tejas Deshmukh for Respondent /
Original Petitioner.

CORAM : M. S. SONAK, J.
DATE : 22 JULY 2015

P.C. :-

1] This civil application taken out by the respondent - landlord seeks directions to the petitioner tenant to clear arrears of compensation as directed earlier as also, to deposit in this Court compensation at the rate of Rs.7,500/- per month as a condition for continuing in possession of the suit premises on the basis of interim orders made by this Court.

2] There is some dispute as to whether the arrears have been cleared or not. However, the learned counsel for the petitioner tenant submits that in case there is any shortfall, the same will be cleared within a period of four weeks from today. Statement is accepted and accordingly there is no necessity to make any further order in this regard.

3] On the aspect of reasonable compensation, the respondent landlord has placed on record a valuation report made by Synergy Valuers & Project Consultants Pvt. Ltd. The report, upon consideration of instances in the locality, has determined reasonable compensation at Rs.11,000/- per month.

4] The learned counsel for the petitioner tenant points out that the instances considered by the valuer pertain to Narayan Peth, Pune, whereas the suit premises are situated at Sadashiv Peth and therefore, the instances are not comparative. There is no reason to dispute that there is no substantial distance between the two Peths in the old City of Pune. Nevertheless, looking to other relevant aspects, including the payment capacity of the petitioner tenant, it would be proper if reasonable compensation is determined at Rs.7,500/- per month. The contention that deposit should be ordered from the date of eviction decree by the trial Court on 15 February 2008 also cannot be accepted. This is because during the pendency of appeal, the petitioner tenant is stated to have made deposits before the appeal Court and further, no application was made by the respondent landlord for any increase. Accordingly, direction to deposit shall be with effect from the date of the appeal Court decree i.e. 28 March 2013.

5] Accordingly, this civil application is disposed of by accepting the statement of the petitioner tenant in the context of arrears till date and further directing the petitioner tenant to deposit in this Court reasonable compensation at the rate of Rs.7,500/- per month effective from 1 April 2013 and to continue to deposit the same on or before 5th day of each succeeding month. The differential amount and arrears w.e.f. 1 April 2013 to be deposited within eight weeks from today. This means that the petitioner tenant shall be entitled to credit for the amounts already deposited, if indeed, such amounts have already been deposited. It is made clear that the deposit of reasonable compensation shall be a condition for the interim relief restraining execution of the eviction decree. If therefore, there is any default, the interim order shall stand vacated.

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

7] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)