

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.276 OF 2014
IN
CIVIL REVISION APPLICATION NO.152 OF 2013

Surendra Tukaram Mallik.] ... Applicant/
(Org. Respondent)

In the matter between :

Balkrishna Soni.] ... Applicant/
(Org. Defendant)

Versus

Surendra Tukaram Malik.] ... Respondent/
(Org. Plaintiff)

Mr. Kunal Bhanage for Applicant.
Mr. G. S. Bhat for Respondent.

CORAM :- M. S. SONAK, J.
DATE :- JUNE 29, 2015

P. C. :-

1. By this Civil Application, the Respondent in the main Civil Revision Application (landlord) seeks the following reliefs :-

- (a) For a direction to the original Plaintiff to pay an amount of Rs.23,263.11 (Rupees Twenty Three Thousand Two Hundred Sixty Three and Eleven Paise Only) towards monthly taxes;

- (b) To deposit an amount of Rs.11,000/- (Rupees Eleven Thousand Only) towards reasonable compensation from the date of decree dated 21/02/2004 till handing over of possession.

2. Insofar as amounts towards taxes are concerned, there is some dispute. The Applicant states that the taxes would be hardly Rs.104/- (Rupees One Hundred For Only) per year. Looking to the circumstance that the taxes relate from the period 1992 and the calculation presented by the landlord constitute a percentage of the rents reserved, there is no reason to deny the direction as applied for in the context of reimbursement of monthly tax amount. Any orders in this regard shall, however, be without prejudice to the rights and contentions of the parties at the stage of final hearing. Accordingly, the original Applicant is directed to pay an amount of Rs.23,263.11 to the Respondent-landlord within a period of six weeks from today.

3. Insofar as deposit of reasonable compensation is concerned, this Court is required to apply the principle set out in the cases of *Atma Ram Properties (P) Ltd. Vs. Federal Motors (P) Ltd*¹ and *State of Maharashtra and Another Vs. Supermax International Private Limited and Others*². The Respondent-landlord has relied upon the leave and license agreement in respect of premises in the same building indicating that compensation payable will be Rs.11,000/- per month. However, it is not possible to accept the rates

1 (2005) 1 Supreme Court Cases 705

2 (2009) 9 Supreme Court Cases 772

in the leave and license agreement as the basis in the present case. This is because, there are photographs of the suit premises indicating the state thereof. Besides, the suit premises are on the ground floor of the chawl having no road frontage. In these circumstances, it will be appropriate if reasonable compensation is determined at Rs.5,000/- (Rupees Five Thousand Only) per month. The tenant, is therefore directed to deposit in this Court compensation at the rate of Rs.5,000/- effective from 01/03/2013. The first of such deposit shall be made on or before 31/07/2015. Insofar as arrears are concerned, the tenant is granted three months time to deposit the same by way of equal monthly installments. Such deposit shall be a pre-condition for continuing in possession of the suit premises in pursuance of interim relief granted in the present petition.

4. Civil Application is disposed of in the aforesaid terms.

5. Since the Respondent-landlord is the senior citizen, hearing of the Civil Revision Application is expedited.

(M. S. SONAK, J.)