

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2056 OF 2015

Mr. Anthony Peter Coutinho & Anr. .. Petitioners
Vs.
Shri Ashok Bhagwandas Harjani & Anr. .. Respondents

Mr. Tushar Dahibawkar i/b M/s. Dahibawkar & Co. for petitioners.

Ms. R.C. Nichani for respondents.

**CORAM : K.R. SHRIRAM, J.
DATE : 2ND MARCH, 2015**

P.C.

1 This writ petition is filed challenging an order of conditional stay granted by the appellate bench of the Small Causes Court at Mumbai. The respondents are the original plaintiffs having filed R.A.E. Suit No.69 of 2007. The trial court decreed the suit and the petitioners herein preferred an Appeal. While admitting the Appeal and granting stay, the trial court, after taking into consideration the valuation reports, has fixed an amount of Rs.10,000/- per month as compensation to be paid from the period beginning from the date of the decree of the trial court. The appellate court has considered the valuation report one of which stated the compensation payable about Rs.36,000/- per month and the other gave the figure of about Rs.17,900/- per month. The compensation was fixed at Rs.10,000/- per month despite these two figures.

2 The jurisdiction exercised under Article 227 is supervisory in nature. It is exercised when the subordinate court has assumed the jurisdiction which it did not have or has failed to exercise the jurisdiction though available in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby. The Court may also step in and exercise its supervisory jurisdiction if there is an error which is manifest and apparent on the face of the proceedings and grave injustice or gross failure of justice has occasioned thereby. (*Surya Dev Rai Vs. Ram Chander Rai & Ors.*¹). The function of High Court under Article 227 of the Constitution is limited to see that subordinate Court or Tribunal functions within its limit or authority and not to see whether the order passed by the Trial Court or Tribunal was the correct order or not. I find no perversity or infirmity in the order.

3 In the circumstances, the writ petition is rejected. The costs in the sum of Rs.5,000/- to be paid to the respondents within two weeks from today. The appellate court to consider before proceeding with the Appeal whether this direction regarding costs is complied with or not.

1 AIR 2003 SC 3044

- 4 The counsel for the petitioners seeks time to deposit Rs.3,55,000/-.
The petitioners to pay every 7th day from today Rs.60,000/- for five weeks
and the balance amount of Rs.55,000/- by the end of sixth week.
- 5 Rest of the order of the appellate bench remains unaltered.

(K.R. SHRIRAM, J.)