

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1785 OF 2015
WITH
WRIT PETITION (STAMP) NO. 8796 OF 2015

Shantilal Nangi Cheda .. Petitioner
vs.
Ramkali Sitaram Kushwaha .. Respondent

Mr. Kunal Bhanage for Petitioner.

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

P.C. :-

1] Writ Petition (Stamp) No. 8796 of 2015 is not on board.
Upon mentioning the same is taken on board.

2] Writ petition no. 1785 of 2015 challenges order dated 22 January 2015, by which the appellate bench of the Small Causes Court has imposed a condition of payment of Rs.3,000/- per month as compensation for the use of the suit premises from the date of eviction decree i.e. 30 August 2012 till the disposal of the appeal.

3] The learned counsel for the petitioner has submitted that the suit premises are in fact in a slum area and in such circumstances the condition imposed is too onerous. Relevant considerations have been ignored whilst making the impugned order.

4] On perusing the impugned order and the material on record, it cannot be said that the same is vitiated by any perversity or

unreasonableness. The appeal court has applied the principles laid down in the case of *Atma Ram Properties (P) Limited vs. M/s. Federal Motors Pvt. Ltd.*¹ and in the facts and circumstances of the present case, it cannot be said that the condition imposed is excessively onerous. Accordingly, writ petition no. 1785 of 2015 is dismissed. There shall be no order as to costs.

5] The learned counsel for the petitioner states that substantial portion of the arrears have already been cleared. In view of the same, extension of three months time is granted for clearance of the balance arrears. In so far as the direction for payment at the rate of Rs.3,000/- per month is concerned, the petitioner shall abide by the same in terms of the impugned order.

6] In view of the extension of time granted for deposit of balance portion of the arrears, the reliefs applied for in writ petition (stamp) no. 8796 of 2015 also stands worked out. Accordingly, the said petition is also disposed of.

7] Both the writ petitions are disposed of in the aforesaid terms.

Chandka

(M. S. SONAK, J.)

¹ (2005) 1 SCC 705