

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

***CIVIL APPLICATION NO. 532 OF 2014
IN
CIVIL REVN. APPLICATION NO. 767 OF 2013***

Shri Vasant Balu Shinde
(deceased) through legal heirs
Shanta Vasant Shinde & ors. ... Applicants

v/s

Shri Shafi Shaikh & ors. ... Respondents

Mr.Namarta S. Bobade i/by M.J. Bhatt for the applicants.

Ms.Megha Mitra Kundu i/by R.S. Chahal and M. Kundu for the respondents.

CORAM: N. M. JAMDAR, J.

DATED : 6TH MAY, 2015

ORAL ORDER:

By this application, the applicants pray that the judgment and decree passed by the learned District Judge, Thane, dated 29 April 2011, setting aside the order passed by the Trial Court in respect of the quantum of rent, be set aside.

2 The respondents had filed a suit bearing Regular Civil Suit No.52 of 2005 in the Court of Civil Judge, Junior Division, Vashi, for permanent injunction. According to the applicants, the

applicants are the landlords of the suit premises. The suit was filed by the applicants stating that the rent of the premises is Rs.850/-. The respondents failed to pay the rent and the premises were required on the ground of *bonafide* requirement. In this suit, the learned Trial Judge framed issues as regard the quantum of monthly rent, whether the respondents were liable to pay arrears of rent, and at what rate. The suit was partly decreed by the learned Civil Judge and the respondents were directed to pay arrears of rent as at Rs.29,880/- and the respondents were directed to hand over possession of the suit property. The learned Civil Judge held that the rent was at the rate of Rs.850/-.

3 An appeal was filed by the respondents in the District Court, Thane, bearing No.60 of 2007. The appeal was allowed by the judgment and order dated 29 February 2011. The decree for possession was set aside and the decree towards arrears of rent was modified and the learned District Judge held that the rent fixed will be at Rs.30/- per month. The civil application is taken out for a direction that the order passed by the District Judge modifying the decree and fixing the quantum of rent of Rs.30/-, be stayed and the respondents be directed to pay an amount of Rs.850/- per month..

4 The matter was adjourned for the respondents to take instructions as to whether the respondents are willing to voluntarily pay higher amount as the amount of Rs.30/- per month is highly inadequate. Learned counsel for the respondents has stated that, at

the most Rs.100/- can be paid as rent. Learned counsel for the applicants stated that currently the market rate for rent of such premises is Rs.1500/-.

5 The writ petition filed by the landlords is admitted. Respondents continue to be in possession. The amount of Rs.30/- per month which has been reduced from Rs.850/- by the Appeal Court by passage of time, has become highly inadequate for the respondent landlords. At the same time, the request of the applicants to direct the respondents to pay market rate also cannot be considered.

6 In the circumstances, in my opinion, it will meet the ends of justice if the respondents are directed to pay an amount of Rs.700/- per month, henceforth. Whether respondent should pay the arrears at the enhanced rate will be considered at the time of hearing of the civil revision application. This arrangement is without prejudice to the rights and contentions of the parties.

7 The civil application is disposed of.

(N. M. JAMDAR, J.)