

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1811 OF 2014
IN
FIRST APPEAL NO. 543 OF 2014

Mahanagar Telephone Nigam Ltd.	...	Applicant
VS.		
Mrs. Nirmala H. Mehta & Ors.	...	Respondents

Ms. Suvedita I. Shah, Advocate for the appellant.
Mr. Hemant Mehta i/b. M/s. Mehta & Co., Advocate for the respondents.

CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.
DATE : 25th February, 2015.

P.C.

Heard the learned counsel for the parties. Perused the contents of the Civil Application. Also perused the judgment of the trial Court.

The applicant is occupying the entire ground floor of the building known as "Sahyog Complex" admeasuring 3000 sq.ft. The premises are situated at Thane and are business premises. Admittedly, the licence fees paid by the applicant for the period from 2001 to 2006 was at the rate of Rs.40/- per sq.ft. The trial Court has granted mense profits at the rate of Rs.80/- per sq.ft. We doubt whether the trial Court could have directed the payment of mense profits without there being an enquiry under Order 20 Rule 12 of the Code of Civil Procedure. However,

considering the great escalation in the prices of immovable properties, specially the properties used for business purposes in Mumbai and in Thane, in the interest of justice, the applicant would be required to pay the monthly compensation @ Rs.80/-per sq.ft. In our *prima facie* view, though the fair rent of the property could be more than Rs.80/- per sq.ft., since the said rate is determined by the trial Court, we intend to grant stay to the judgment and decree only on the condition that the applicant deposits the monthly compensation @ Rs.80/- per sq.ft. from the date of the judgment of the trial Court, i.e., 31st December, 2013 and subject to the deposit of compensation @ Rs.40/- per sq.ft. from 1st August, 2006 till 31st December, 2013. The arrears of compensation @ 80/- per sq.ft. from 31st December, 2013 till February, 2015 should be deposited in the trial Court within a period of eight weeks. The stay of possession is subject to the aforesaid conditions. If the amount is so deposited, the respondents are permitted to withdraw the same.

The Civil Application is allowed in the aforesaid terms and disposed of.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)