

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5207 OF 2015

Shabbir A. Ganjerdiwala and ors. .. Petitioners
vs.
Smt. Shirinbai Hassanali Kagalwala and ors .. Respondents

Mr. E.A. Gonsalves for the Petitioners.
Mr. S.S. Redij for Respondent Nos.1 to 3.

CORAM : M. S. SONAK, J.
DATE : 21 JULY 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] This petition challenges the order dated 26 March 2015, by which the Appellate Bench of the Small Causes Court has granted stay against the execution of decree subject to petitioners depositing compensation at the rate of Rs.12,000/-, in addition to contractual rent of Rs.250/- per month.

3] If impugned order is perused, then it appears that there is hardly any discussion as to the basis upon which such amount was determined. This is possibly because the petitioners as well as the respondents did not place the sufficient material before the Court. The respondents-landlord only placed on record the Ready Reckoner. Even the same does not appear to have been taken into consideration in determining the reasonable compensation. At least the consideration, if any, is not reflected in the impugned order.

4] However, the fact remains that the suit premises ad-measures 90 sq.ft. and are situated at 2nd Lane at Umarchadi Road, Mumbai-400 009. Therefore, on ad-hoc basis the compensation is determined Rs.7,000/- per month. Accordingly, the Appeal Court is directed to determine afresh the amount towards reasonable compensation. Parties are given liberty to file material on record for the purposes of determining reasonable compensation. Such material to be filed within a period of six weeks from today. The compensation at the rate of Rs.7000/- per month shall apply during pendency of the determination by the Appeal Court. The Appeal Court not to be influenced either by its earlier order dated 26 March 2015 or the circumstance that this Court has determined compensation at Rs.7000/- per month. The Appeal Court to decide the matter on basis of the material which parties may place on record, and after following the law laid down by the Apex Court in cases of *Atma Ram Properties (Private) Limited Vs. Federal Motors Private Limited*¹ and *State of Maharashtra & anr. Vs. M/s. Super Max International Pvt. Ltd. & Ors.*²

5] Rule is made absolute to the aforesaid extent. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

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1 2005(1) SCC 705

2 2009(5)ALL MR 1001