

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.731 OF 2014

Shri Hirdaya Narayan Pandey.] ... Applicant
Versus
Shri Sheshnarayan Harishchandra Mishra.] ... Respondent

Mr. Charles M. D'Mello for Applicant.
Mr. Kamala Kant Pandey for Respondents.

CORAM :- M. S. SONAK, J.
DATE :- JULY 24, 2015

P. C. :-

1. Heard the learned Counsel for parties.
2. Rule.
3. With the consent of and at the request of learned Counsel for parties, Rule is disposed of with the following agreed order :-
 - (a) The impugned order dated 22/04/2014 made by the Appellate Bench of the Small Causes Court in Revision No.78 of 2013 is set aside.
 - (b) The Judgment and Order dated 14/03/2012 made by the Small Causes Court, setting aside the *ex-parte* decree dated 05/05/2004, is restored.
 - (c) The aforesaid is subject to the Applicant herein agreeing and undertaking to pay to the Respondent herein compensation at the rate of Rs.1,500/- (Rupees One Thousand Five Hundred Only) per month effective from

01/07/2015 and to continue to pay the same at the same rate until the final disposal of R.A.E. & R. Suit No.288/684 of 1996. The first of such payment shall be made on or before 31/07/2015. Further payments shall be made on or before the 5th day of each succeeding month. The payment of compensation shall be made by cheque so that there is no controversy about issue of receipt. If in any month, compensation is not accepted by the Respondent, the Applicant shall be at liberty to deposit the same before the Small Causes Court.

- (d) In case there are any two consecutive defaults on the part of the Applicant in payment of compensation at the rate of Rs.1,500/- per month, it shall be open to the Respondent to apply to the Small Causes Court for striking out the Applicant's defence. Such application will be considered by the Small Causes Court on its own merits and disposed of expeditiously i.e. within a period of one month from the date of making the same.
- (e) The R.A.E. & R. Suit No.288/684 of 1996 shall be disposed of by the Small Causes Court as expeditiously as possible and in any case, within a period of 18 (Eighteen) months from today.
- (f) All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)