

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 144 OF 2015
IN
CIVIL APPLICATION (ST.) NO. 10018 OF 2013
IN
CIVIL REVISION APPLICATION NO. 7 OF 2009

Mohammed Shabbir Abdul Gaffor
Sheikh, since deceased through
his legal heirs and representatives & Ors. .. Applicants
In the matter between :
Mohammed Shabbir Abdul Gaffor
Sheikh .. Applicant
VS.
S. C. Dubey, since deceased
through L.Rs. & Ors. .. Respondents

Ms Minal Chavan i/b. Mr. Vinay Hegde for Applicants.
Mr. S. G. Surana for Respondent No. 1.

CORAM : M. S. SONAK, J.
DATE : 22 JULY 2015

P.C. :-

- 1] **Not on board, upon production, taken on record.**
- 2] These two civil applications can be disposed of with the common order.
- 3] The first civil application seeks restoration and the second civil application seeks to bring on record legal representatives of the deceased applicant.

4] This CRA was admitted and interim order was granted on 15 February 2011. At this stage, liberty was granted to the respondent landlord to take out an appropriate application in terms of the law laid down in the case of *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.*¹ However, before such application could be taken out on 1 February 2013, the CRA as well as application seeking leave to bring on record the legal representatives of deceased applicant were dismissed for non payment of bhatta charges by the order of the Registrar.

5] The applicant has shown sufficient cause and accordingly, the order of dismissal is recalled and the CRA as also the CA is restored. The civil application is allowed and legal heirs of deceased applicant are permitted to be brought on record. Necessary amendment to be carried out within two weeks from today.

6] The interim relief granted on 15 February 2011 is also restored subject to the condition that the applicants deposit in this Court reasonable compensation at the rate of Rs.4,000/- (Rupees Four Thousand) per month w.e.f. 15 February 2011. This is on basis that the suit premises admeasure 150 sq. ft. and are located at Andheri. It is submitted that almost nine persons reside in the suit premises, out of which three persons are stated to be employed.

1 (2005) 1 SCC 705

The suit premises, it is submitted, are in slum area. Taking into consideration all these circumstances, reasonable compensation is fixed at Rs.4,000/- per month and deposit is ordered only from 1 February 2011 (since interim relief was granted and is now being revived w.e.f. 15 February 2011) instead of the date of the decree of eviction by the trial Court or the appeal Court. The arrears shall be cleared by the applicants within a period of two months from today. The applicants to continue to deposit reasonable compensation at the rate of Rs.4,000/- (Rupees Four Thousand) per month on or before the 5th day of each succeeding month. It is clarified that the interim relief granted is subject to such deposit and in case there is any default, it will be open to the respondent landlord to apply for vacation of interim orders.

7] Civil applications are disposed of accordingly.

(M. S. SONAK, J.)