

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2424 OF 2014
IN
WRIT PETITION NO. 10900 OF 2011

Chandrakant T. Kalebere	.. Applicant
In the matter between	
Babulal H. Dhoka (since	
deceased through Legal heirs)	.. Petitioners
vs.	
Chandrakant T. Kalebere & ors.	.. Respondents

Mr. R.C. Kalebere for the Applicant.
Mr. Nitin Dhumal for the original Petitioners.

CORAM : M. S. SONAK, J.
DATE : 1 JULY 2015.

P.C. :-

1] By this civil application, the applicant seeks to withdraw the amount of reasonable compensation which the original petitioners have been directed to deposit in this Court as a condition for interim relief restraining the execution of the eviction decree. Admittedly, the amount of reasonable compensation fixed at the rate of Rs.5900/- per month is over and above the contractual rent of Rs.25/- per month.

2] In case of *State of Maharashtra & anr. Vs. M/s. Super Max International Pvt. Ltd. & Ors. - 2009 (5) ALL MR 1001*, the Apex Court, at para 48 has made the following observations:

48. Before concluding the decision one more question needs to be addressed: what would be the position if the tenant's appeal/revision is allowed and the eviction decree is set aside? In that event, naturally, the status quo ante would be restored and the tenant would be entitled to get back all the amounts that he was made to pay in excess of the contractual rent. That being the position, the amount fixed by the court over and above the contractual monthly rent, ordinarily, should not be directed to be paid to the landlord during the pendency of the appeal/revision. The deposited amount, along with the accrued interest, should only be paid after the final disposal to either side depending upon the result of the case. In case for some reason the Court finds it just and expedient that the amount fixed by it should go to the landlord even while the matter is pending, it must be careful to direct payment to the landlord on terms so that in case the final decision goes in favour of the tenant the payment should be made to him without any undue delay or complications.

3] In the light of the aforesaid, it will not be possible to permit the applicant to withdraw the amount of reasonable compensation, which has since been deposited in this Court. In the application, no grounds are made out to demonstrate as to why in this particular case, the ordinary rule, as enunciated by the Hon'ble Apex Court should be departed.

4] Accordingly, this Civil Application is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)