

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 469 OF 2015
IN
CIVIL REVISION APPLICATION NO. 701 OF 2014

Smt. Heerabai Yadav Kapadnis
(since deceased) through legal heirs

a) Suresh Yadav Kapadnis

.. Applicant

vs.

Shri Prakash Sudam Malve & Ors.

.. Respondents

Ms. Sukhman Rai h/f. Mr. S.S. Patwardhan for the Applicant.
Mr. Madhav Jamdar for Respondent Nos.1 to 5.

CORAM : M.S. SONAK, J.

DATE : 14 OCTOBER, 2015.

P.C. :

1) Parties have placed on record the material in pursuance of the order dated 28.08.2015. On the basis of the material placed on record, compensation at the rate of Rs.1,500/- per month would be appropriate. However, Ms. Sukhman, the learned Counsel for the applicant submits that the financial position of the applicant is quite precarious. The Hon'ble Apex Court in the cases of **Atma Ram Properties (Private) Limited vs. Federal Motors Private Limited¹** and **State of Maharashtra & anr. vs. Super Max International Pvt. Ltd.²** has held that compensation amount should not be

¹ (2005) 1 SCC 705

² 2009 (5) ALL MR 1991

onerous and in determining the same some consideration is required to be shown to the financial status of the tenant. Therefore, reasonable compensation is determined at the rate of Rs.1,000/- (Rs. One Thousand) per month. The applicant to deposit the same with effect from 01.05.2013. The compensation amount to be deposited on or before the fifth day of each succeeding month. Ad-interim protection granted on 28.08.2015 is confirmed in the aforesaid terms. Time limit for deposit of arrears is extended by a period of 6 weeks from today.

2) Considering the facts and circumstances of the present case, it will be appropriate if the landlords are permitted to withdraw the compensation amount by filing an undertaking that they shall bring back the said amount or any portion thereof if so directed by this Court at the stage of final disposal of this Petition. It is further made clear that in case of default in the payment of compensation, the landlords shall be entitled to get the interim relief vacated. The applicant is at liberty to deposit the compensation amount before the Trial Court (Civil Judge, Junior Division, Yeola). The Trial Court to permit withdrawals in terms of this order.

3) The Civil Application is disposed of in the aforesaid terms.

4) All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)