

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3125 OF 2013
IN
WRIT PETITION NO. 6322 OF 1998

Ganesh D. Gaikwad .. Applicant
vs.
Vimal V. Songaonkar
deceased through her heirs and Lrs.
Shailaja Shekhar and ors. .. Respondents

Mr. Balasaheb Deshmukh for the Applicant.
Mr. S.P. Thorat for Respondents.

CORAM : M. S. SONAK, J.
DATE : 10 JUNE 2015.

P.C. :-

- 1] Heard learned counsel for the parties.
- 2] By this application, the applicant seeks directions against the respondents, i.e., petitioners in Writ Petition No. 6322 of 1998 to pay compensation of Rs.25000/- per month from 24 June 1998 for occupation of the suit premises on the basis of interim order of this Court restraining execution of eviction order dated 24 June 1998.
- 3] A valuation report has been placed on record, which indicates that reasonable monthly rent would be in the range of Rs.1500/-. The photographs of the suit structure are on record. Learned counsel for the original petitioner submits that the petitioner is a widow and is engaged in some odd jobs for the purposes of her livelihood.

Learned counsel for the applicant submits that there are inherent deficiencies in the valuation report and if the same are corrected, the valuation should be much higher. Learned counsel submits that in respect of premises in the vicinity, the Civil Court has awarded compensation of Rs.5000/- per month.

4] Upon consideration of the material on record, interest of justice would be met if the respondents, i.e., original petitioners, are directed to deposit in this Court compensation at the rate of Rs.1500/- (Rs. One Thousand Five Hundred) per month with effect from 24 June 1998, i.e., the date of eviction decree. In case of ***Atma Ram Properties (Private) Limited Vs. Federal Motors Private Limited***¹, the Hon'ble Apex Court has held that the appellate court has jurisdiction to put the parties seeking stay on the eviction decree to such reasonable terms as would in its opinion reasonably compensate the decree holder for loss occasioned by delay in execution of decree by the grant of stay order, in the event of the appeal being dismissed and in so far as those proceedings are concerned. The Apex Court has further held that such terms, needless to say, shall be reasonable. This is because, if onerous terms are imposed, the same might virtually deny the party of an right to appeal or redressal.

1 2005(1) SCC 705

5] In the present case, although the petition was instituted in the year 1998, the respondent-applicant has applied for determination of reasonable compensation only in the year 2013. Accordingly, although direction is being made to the respondents, i.e., original petitioners, to pay compensation at the rate of Rs.1500/- per month from 24 June 1998, in so far as the arrears upto the date of this order are concerned, the respondents, i.e., original petitioners, is granted liberty to make deposit by way of six equal and monthly installments in this Court. From the date of this order, however, the respondents, i.e., original petitioners, shall regularly pay to the applicant compensation of Rs.1500/-, which shall ofcourse be without prejudice and subject to any final order that may be made in the petition.

6] The first installment in so far as arrears are concerned shall be paid on 31 July 2015.

7] With the aforesaid, present Civil Application is disposed of.

8] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)