

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

*CIVIL APPLICATION NO. 640 OF 2014
IN
CIVIL APPLICATION NO. 1943 OF 2012
IN
SECOND APPEAL NO. 970 OF 2012*

Smt.Sushilabai Laxman Surwase,
R/at, Azad Galli, Akkalkot, Dist. Solapur. ... Applicant/Appellant

v/s

Shri Shankar Bhagwan Pardeshi,
R/at Azad Gallai, Akkalkot, Dist. Solapur. ... Respondent

Mr.A.B.Tajane for the applicant/appellant.

Mr.Amit Sale for the respondent.

*Coram: N.M. Jamdar, J.
Dated: 29 April 2016*

P.C.:

The Applicant seeks modification/review of the order dated 6 January 2014 staying the direction to the Applicant to hand over possession of the property on condition that the Applicant will pay an amount of Rs.1000/- per month towards compensation. The entire application proceeds primarily on the ground that the learned Single Judge (Mrs.V.A.Naik, J.) while fixing the amount of Rs.1000/-, has made an error by taking into account that the area of the room is 164.7 sq. meters. The submission cannot be accepted. Firstly, the reference to square meters clearly appears to be a typographical error and, therefore, the amount of

Rs.1,000/- is fixed keeping in mind the area as 164.7 square feet. In any case, if there was an error in the order, the Appellant should have moved the same learned Judge immediately to get it corrected. This is not done. After the learned Judge is not available at the principal seat, the application is filed. I am not inclined to recall or modify the order dated 6 January 2014.

2 The learned counsel for the Applicant then submitted that the Applicant is unable to afford the compensation of Rs.1000/- per month and on that ground the compensation fixed be reduced. This argument proceeds on the basis that the order passed on 6 January 2014 contain no error, however, the Appellant is not financially able to meet the requirement of deposit of Rs.1000/- per month. The present application is not on this ground.

3 Learned counsel for the Applicant seeks leave to withdraw the present civil application and file a civil application for reduction of the amount of compensation. If such an application is filed, it will be considered on its own merits.

4 The civil application is disposed of as withdrawn.

(N. M. JAMDAR, J.)