

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

**CIVIL APPLICATION NO.111 OF 2016
IN
WRIT PETITION NO.1422 OF 1996**

Uttar Pradesh State Handloom Corporation
Limited
an Uttar Pradesh State Undertaking carrying
on business inter alia at Indian Mercantile
Mansion, Ground Floor, Shop NO.8, Opposite
Regal Cinema, 22/24, Madam Cama Road,
Bombay-400 005.

.. Appellant/Petitioner.

In the matter between

Uttar Pradesh State Handloom Corporation
Limited
an Uttar Pradesh State Undertaking carrying
on business inter alia at Indian Mercantile
Mansion, Ground Floor, Shop NO.8, Opposite
Regal Cinema, 22/24, Madam Cama Road,
Bombay-400 005.

.. Petitioner.

V e r s u s

1. The Oriental Insurance Company Ltd
an incorporated central government
company, carrying on business inter alia
at Oriental House, 7, Jamshedji Tata Road
Bombay-400 020.
2. S.C. Shah
an Indian Inhabitant of Bombay, functioning
at the material time as the 'Estate Officer'
at Oriental House, 7, Jamshedji Tata Road,
Bombay-400 020.
3. Purva @ Urvashi Suresh Jahangiani
4. Jyotika Suresh Jahangiani

5. Ruchika Suresh Jahangiani
All Indian Inhabitants of Bombay, having
their address at 'Panchamrut' D/303,
Panchamrut CHSL, Ghodbunder Road,
Kesarvadavali, Thane (West) 400 601 .. Respondents

Mr. A.R. Pande for the Applicant.
Mr. V.Y. Sanglikar for Respondent No.1.
Ms. B.R. Mangale for Respondent Nos. 3 to 5.

CORAM : M.S. SONAK, J.
DATE : 19 JANUARY, 2016

P.C. :

1 Heard the learned Counsel for the parties.

2 By this Civil Application, the Applicant/Petitioner seeks recall of the order dated 19 November 2015, which the Writ Petition No.1422 of 1996 was dismissed for non-prosecution.

3 For the reasons set out in the Civil Application, the case is made out for condonation of delay in filing the Civil Application as well as recall of the order dated 19 November 2015. Accordingly, the order dated 19 November 2005 is hereby recalled and the Writ Petition No.1422 of 1996 is restored to file. Place the matter for final hearing in accordance with its turn.

4 During pendency of the petition, the Petitioner was directed by interim order dated 6 March 1996, subject to Petitioner depositing the reasonable compensation of Rs.25,000/- per month in respect of the continued occupation in the suit premises. In respect of the same premises, the Respondents-Landlords in the companion petition i.e. Writ Petition No.1442 of 1996 instituted by an erstwhile tenant, had taken out Civil Application No.2664 of 2013, seeking enhancement in the compensation amount which was fixed way back in the year 1996. There is no dispute that Civil Application No.2664 of 2013 in Writ Petition No.1442 of 1996 pertains to the same premises. The said Civil Application was disposed of by directing early hearing. However, opportunity was granted to the landlords to press for an enhancement, in case the petition is not disposed of before March, 2014.

5 Now that Writ Petition No.1422 of 1996 is being restored, the interim relief restraining the Landlords from executing the eviction decree can also be restored. However, this will have to be subject to further condition, as, the Petitioner cannot insist upon continuing in occupation of the suit premises, on the basis of deposit of the compensation at the rate of Rs.25,000/- per month only. As noted earlier, this compensation amount was determined in the year 1996.

6 The suit premises according to the Petitioner admeasures 1700 sq.fts., the same are used for the commercial purposes and are located opposite Regal Cinema, Colaba, Mumbai, which is a prime commercial locality. According to Mr. V.Y. Sanglikar, the learned Counsel appearing on behalf of Respondent No.1, as per ready recknor, a reasonable compensation should be in the range of Rs.5,00,000/- per month. At this stage, however, it would be appropriate, if the Petitioner is directed to deposit for this a reasonable compensation at the rate of Rs.1,00,000/- per month with effect from 01 December 2015, since, Mr.Pandey, the learned Counsel for the Petitioner states that the compensation at the rate of Rs.25,000/- per month has been deposited upto November, 2015. This determination is not final and both the parties are granted opportunity to place the adequate material on record which will assist this Court in determining the reasonable compensation as per the principles laid down by the Hon'ble Appellate Court in case of **M/s Atma Ram Properties (P) Ltd Vs. M/s Federal Motor Pvt Ltd, (2005) 1 SCC 705** and **The State of Maharashtra & Anr Vs. M/s Supermax International Pvt Ltd and Ors., (2009) 35 SCD 386**. For this purpose, four weeks time is granted to both parties. Liberty is granted to the Landlords to apply.

7 Therefore, the Writ Petition No.1422 of 1996 is restored. The

Interim relief granted therein is also restored, subject to Petitioner depositing in this Court a reasonable compensation at the rate of Rs.1,00,000/- with effect from 01 December 2015. Arrears to be cleared within a period of four weeks from today. The compensation amount to be deposited each month on or before 10th day of each succeeding month.

8 Liberty to apply as aforesaid.

9 Civil Application is disposed of in above terms.

(M.S. SONAK, J.)