

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO. 1943 OF 2016**

Sumitra Shashikant Khokani & Ors.

..Petitioners

Vs.

Jyotindra Ishwarlal Khokani

..Respondent

**Mr. Vineet Naik Senior Advocate i/b Mr. Prabhanjan Gujar for the
Petitioners**

Mr. P. S. Dani Senior Advocate a/w Mr. Himanshu Kode for the Respondent

CORAM : R. M. SAVANT, J.

DATE : 15th FEBRUARY, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 5-11-2015 passed by the Appellate Bench of the Small Causes Court, by which order, the application Exhibit 6 filed for stay of the decree pending the Appeal came to be allowed on the conditions mentioned in the operative part of the impugned order. The condition is that the Petitioners / Appellants pay compensation in respect of the suit premises @ Rs.40,000/- per month from the date of the judgment and decree dated 31-3-2013 up to 31-10-2015 on or before 30-11-2015 in the Court. The Learned Senior Counsel Mr. V. B. Naik appearing on behalf of the Petitioners states that the direction as contained in clause 2(i) of the impugned order has been complied with and the deposit has been made by the Petitioners up to February 2016.

2 The compensation fixed at Rs.40,000/- is challenged on the ground that the same is excessive and unreasonable. During the course of the hearing of the above Writ Petition, the parties have arrived at a consensus. The Learned Senior Counsel appearing on behalf of the Respondents Mr. Dani has no objection to the compensation being fixed at Rs.30,000/- from March 2016 onwards. Upon this the Learned Senior Counsel appearing for the Petitioners on instructions of the Petitioner No.3 Sanjiv Shashikant Khokani states that the said figure of Rs.30,000/- is acceptable to the Petitioners.

3 In view of the said statement made by the Learned Senior Counsel appearing for either side there is no warrant to consider the impugned order on merits. The figure of Rs.40,000/- appearing in the impugned order would therefore stand substituted by the figure of Rs.30,000/- per month, but would operate from March 2016 . The impugned order would stand modified accordingly.

4 In the facts and circumstances of the case, the hearing of the Appeal is expedited.

5 The Petition to accordingly disposed of in the above terms.

[R.M.SAVANT, J]