

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

*CIVIL APPLICATION NO. 491 OF 2012
IN
CIVIL REVISION APPLICATION NO.631 OF 2009*

Shri Donald Ferreira (since deceased)

Thr. LR's.

.. Applicants

Vs

Shri C. S. Chandran (since deceased)

Thr. LR's

.. Respondents

Ms. Jui Nerurkar for the Applicant in CAC No. 491/12 & Orig.
Respondent Nos. 1A to 1C.

Mr. S. S. Kanetkar for the Orig. Applicant in CRA No. 631/09.

CORAM : N.M.Jamdar, J.

Date : 2 / 5 December 2016.

P.C. :

. This civil application is filed by the Applicant-respondent in the Revision Application i.e. the landlord for fixing reasonable compensation in view of the law laid down by the Apex Court in the case of *Atmaram Vs. Federal Motors Pvt. Ltd. 2005 (1) RCJ 23 SC* and in *State of Maharashtra vs. Super Max International Pvt. Ltd. AIR 2010 Supreme Court 722*. By order dated 24 January 2014 following order was passed by the learned Single Judge *R. G. Ketkar, J. :-*

“ Heard Mr. P.S. Dani, learned counsel for the applicants and Mr. S.S. Kanetkar, learned counsel for the respondent.

2. The learned counsel for the parties submitted that

in view of the conflicting reports relied by the parties, this Court passed order dated 16th April, 2013 appointing Mr. Anil L. Korgaonkar for submitting report. The valuation made by Mr. Korgaonkar is also different than the valuation made in the reports on behalf of the applicants and the first respondent. The learned counsel, therefore, submitted that they may be permitted to lead evidence in the Trial Court. In view thereof, by consent of the parties following order is passed :

- i. The learned counsel appearing for the parties state that parties will appear before the Small Cause Court, Bandra on 17th February, 2014 and for that no fresh notices be issued to them.
- ii. The learned Trial Judge of the Small Causes Court, Bandra is requested to permit the parties to lead evidence and thereafter record the findings as regards to reasonable compensation.
- iii. The Trial Judge will supply the copy of the evidence so recorded as also findings to the parties and transmit the same to this Court.
- iv. The learned Trial Judge is requested to complete this exercise within six months from the date of appearance of the parties. S.O. to 8th August, 2014.
- v. The original report of Mr. Anil Koregaonkar shall be transmitted by the office to the Small Causes Court, Bandra within a period of 15 days from today and in any case on or before 17th February, 2014.”

2. Thereafter, matter was heard by the learned Small Causes Court Judge, wherein both the parties were given opportunity to lead

evidence . The plaintiff examined three witnesses and the Defendant examined two witnesses. The learned Small Causes Court, after hearing the parties and perusing the material on record determined reasonable compensation in respect of suit premises as Rs.20/- sq. ft. The learned counsel for the Applicant sought enhancement of the amount while the learned counsel for the Respondent sought deduction of the sum. The learned Small Causes Court Judge, has given opportunity to both the parties to produce the material on record and by reasoned order has fixed the amount of Rs.20/-.

3. The premises are 600 sq.ft., situated at Malad, Mumbai. This area is a good residential locality in the city of Mumbai. The property in question is 600 sq. ft. therefore, the compensation of @ Rs. 20/- sq.ft. would be around Rs.12,000/- per month. The premises are residential premises. In the circumstances, the rate indicated by the learned Small Causes Court Judge for fixing of compensation @ Rs.12,000/- per month to my mind, will be just and equitable.

4. Civil Application is accordingly disposed of by directing the Respondent to pay the amount of compensation @ 12,000/- from the date the Civil Application was filed.

5. As far as the arrears are concerned this Respondent is permitted to deposit an additional amount within 16 weeks from today. The Respondent to keep paying the amount of compensation regularly and deposit the arrears in time, failing which the liberty to

the Applicant to apply for vacating the interim relief in the Revision Application. The Civil Application is accordingly disposed of.

6. Deposit will be subject to the final orders to be passed in the Revision Application.

(N.M.Jamdar, J.)