

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

CIVIL APPLICATION NO.992 OF 2015

IN

WRIT PETITION NO.615 OF 2008

Lazarus Francis Nigero and others

.. Applicants

Versus

Smt. Matilda Suresh Kesaria

.. Respondent

Mr. V. E. Pereira, for the Applicants.

Ms. N. S. Moily, for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 9th FEBRUARY 2016

PC.

1. The above Civil Application has been filed by the Applicant / original Respondent seeking a direction that the original Petitioners [wrongly mentioned as Respondent in prayer (a)] be directed to pay compensation at the rate of Rs.61,750/- per month from the date of decree i.e. 04.11.2004 or such other rate as this Court deems it fit appropriate. By order dated 30.10.2015 of a Learned Single of this Court (M. S. Sonak, J) on the basis of the material on record deemed it appropriate to direct the Respondents/original Petitioners i.e. the tenants to deposit compensation at the rate of Rs.5000/- per month for occupation of the premises. The said deposit was to be made for the period

commencing 01.03.2015. The Learned Judge had permitted the Applicant to produce the latest photographs and to place further material which will assist in determination of reasonable compensation. The Learned Counsel Mr. V. E. Pereira appearing for the Applicant i.e. the landlord seeks to place reliance on the Leave and Licence agreement in respect of the premises situated in the same area/locality of the suit premises. It is required to be noted that the suit premises are admeasuring about 250 sq.ft. and are situated in a Gaothan area and can be said to be without amenities which are usually available in a flat. Though the Learned Counsel for the Applicant Mr. V. E. Pereira claims that the suit premises are in the close vicinity of the Vile Parle Station, the fact cannot be lost sight of is that the premises are in a Gaothan and therefore even if the amount is calculated at Rs.200/- per sq.ft., it comes to Rs.5000/- per month, which in my view would be a reasonable amount on the basis of which the Respondent herein i.e. original Petitioner can be permitted to occupy the premises pending proceedings in this Court. The premises which are the subject matter of the Leave and Licence Agreement obviously cannot be compared with the suit premises which as indicated above are in a Gaothan. Hence, interim compensation fixed vide order dated 30.10.2015 is confirmed. The original Petitioners i.e. Respondents herein would continue to pay at the rate of Rs.5000/- per month pending the hearing and final disposal of

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the above Writ Petition. Since the Writ Petition is of the year 2008, the hearing of the same is expedited and to be placed for final hearing after the ensuing Summer Vacation. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J]