

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1765 OF 2013

IN

WRIT PETITION NO.1149 OF 2003

Smt. Vasanti Shankar Ghanekar

.. Applicant

Versus

Shri. Pandurang Vithal Gaikwad

.. Respondent

Mr. S. B. Deshmukh, for the Applicant.

Mr. R. S. Alange, for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 26th FEBRUARY 2016

PC.

1. The above Civil Application has been filed for fixing of interim compensation at the rate of Rs.10,000/- to Rs.15,000/- per month from 31.01.2000. There is a concurrent decree of eviction passed against the Petitioners by the Courts below. The above Writ Petition has been filed in the year 2003 assailing the judgment and order of the Lower Appellate Court dated 09.12.2001. This Court vide order dated 22.08.2014 had directed the Trial Court to carry out the exercise of fixing the interim compensation for the premises in question by taking into consideration the relevant material. This Court had fixed a time frame for the Trial Court for doing so. However, since the Trial Court did not adhere to the said time

frame, by order dated 12.01.2015, the time to carry out the said exercise was extended. The Trial Court has now submitted its finding by order dated 17.10.2015 passed by the Learned 7th Additional Small Causes Judge & Civil Judge Senior Division, Pune. The Trial Court has arrived at a conclusion that the market value or the market rent for the premises in question would be at Rs.6300/- per month. The reasons therefor are mentioned in the order passed by the Trial Court. The premises are admeasuring 10 ft. X 13 ft. wherein a Men's Hair Cutting Saloon is being run in the area known as Karve Road in Pune. This Court by order dated 12.01.2015 had directed the original Petitioners i.e. Respondents to the Civil Applications to deposit interim compensation at Rs.5000/- per month pending the adjudication by the Trial Court of the interim compensation. The original Petitioners have accordingly deposited the said amount calculated on the basis of Rs.5000/- per month up to January 2016.

2. As indicated above, the Trial Court has arrived at the conclusion that Rs.6300/- per month is fair market rent for the premises in question. Since this Court has directed the original Petitioners to pay compensation at Rs.5000/- till adjudication of the same by the Trial Court, in my view, it would be just and proper to direct the original Petitioners to pay interim compensation at the said rate of Rs.5000/- per month. However, the same to be paid by the original Petitioners from March 2013.

(2) - CAW-1765-13.doc

The same to be done within 12 weeks from date and the original Petitioners would go on depositing at the said rate per month as directed by the order dated 12.01.2015. Since the hearing of the Petition is already expedited, the same to be placed for final hearing and to be shown on the final hearing board at its appropriate place after the ensuing summer vacation. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J]