

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5328 OF 2015

Bipinbhai Amarchand Doshi and another .. Petitioners

Versus

Reena Wd/o Devang Padrakar and others .. Respondents

Mr. Kiran Jain a/w Ms. Neeta Solanki i/by Kiran Jain & Co., for the
Petitioners.

Mr. J. V. Parmar, for the Respondents.

CORAM : R.M. SAVANT, J.

DATE : 2nd MARCH 2016

PC.

1. The order dated 18.04.2015 passed by the Appellate Bench of the Small Causes Court, Mumbai, allowing application Exh.9 filed by the Petitioners/ original Defendants for stay of the decree albeit on the condition of depositing Rs.30,000/- per month as compensation for the use and occupation of the suit premises from the date of decree i.e. 30.09.2013 till the date of the decision of the Appeal and thereafter at the said rate every month is taken exception to by way of the above Petition.

2. The Plaintiffs in support of their claim for interim compensation at a higher rate pending the Appeal had relied upon

Valuation Report dated 12.12.2013 of one M/s. Sadguru Associates, Architect and Interior Designer. The Valuers have in the said report mentioned that the expected rent for the premises in question which are admeasuring about 598.2 sq.ft. would be Rs.59,800/- per month. The Appellate Court having regard to the said Valuation Report as also having regard to the fact that the Appellants/Petitioners herein are senior citizens had fixed interim compensation at Rs.30,000/- per month pending the Appeal. It is required to be noted that the suit premises are in a building situated at Chowpatty which can be said to be a prime residential area situated in South Mumbai. The above Petition had come up for admission before a Learned Single Judge of this Court (M. S. Sonak, J.) on 16.06.2015 when by way of ad-interim relief the Petitioners were directed to deposit the interim compensation at the rate of Rs.20,000/- per month instead of Rs.30,000/- per month as directed by the Appellate Bench of the Small Causes Court. In my view, though by way of ad- interim relief, the compensation was fixed at Rs.20,000/- per month having regard to the fact that the suit premises are situated at Chowpatty as also taking into consideration that the Appellants/Petitioners herein are senior citizens, it would be just and proper to substitute the said figure of Rs.30,000/- by Rs.25,000/- per month. The order passed by the Appellate Bench of the Small Causes Court would stand modified accordingly. Since the Learned

Counsel for the Petitioners Mr. Kiran Jain states that the Petitioners have deposited at the rate of Rs.20,000/- per month up to date, the Petitioners may therefore deposit the difference within eight weeks from date in the Lower Appellate Court i.e. Appellate Bench of the Small Causes Court. The Petitioners would deposit at the rate of Rs.25,000/- per month pending the Appeal. The Petition stands disposed of.

[R.M. SAVANT, J]