

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5329 OF 2015

Vikram S/o Jayantilal Mangilal Punamia

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.6 filed by the Petitioners/ original Defendants for stay of the decree albeit on the condition of depositing Rs.20,000/- 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 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 409.20 sq.ft. would be Rs.41,000/- 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.20,000/- 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. By the impugned order the Appellate Bench of the Small Causes Court directed the Petitioners to deposit the compensation at the rate of Rs.20,000/- per month. In my view, 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.20,000/- by Rs.15,000/- 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 would be entitled to the credit of the difference between the two amounts. The

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Petitioners would accordingly deposit at the rate of Rs.15,000/- per month pending the Appeal. The Petitioners would be entitled to adjust the amounts already deposited at the rate of Rs.20,000/-. With the aforesaid directions the Writ Petition is disposed of.

[R.M. SAVANT, J]