

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.97 OF 2016
IN
CIVIL REVISION APPLICATION NO.1000 OF 2010**

**Abdul Sami Mohammad Patel (deceased)
through LRs & Ors.**

..Applicants

Vs.

**Harish Sunderlal Mehta (deceased)
through LRs & Ors.**

..Respondents

**WITH
CIVIL APPLICATION NO.98 OF 2016
IN
CIVIL REVISION APPLICATION NO.1001 OF 2010**

**Abdul Sami Mohammad Patel (deceased)
through LRs & Ors.**

..Applicants

Vs.

**Harish Sunderlal Mehta (deceased)
through LRs & Ors.**

..Respondents

**Mr. V. S. Gharat for the Applicants
Mr. Sandesh Patil for the Respondent No.2**

**CORAM : R. M. SAVANT, J.
DATE : 23rd FEBRUARY, 2016**

P.C.

1 The above Civil Applications have been filed seeking a direction that the Respondents be directed to deposit compensation @ 35,000/- per

month from January 2005 with interest @ 9% p.a, The above Civil Revision Applications are filed by the Applicants challenging the dismissal of the two Appeals filed by the Applicants. One of the Appeals was directed against the decree of declaration of tenancy granted in favour of the Respondents and the second Appeal was directed against the dismissal of the suit for eviction filed against the Applicants. Hence the relief to deposit of the amount is sought in respect of one and the same premises. The said deposit is sought on the basis of the law laid down by the Apex Court in **Atmaram Properties Pvt Ltd. Vs. Federal Motors Pvt Ltd.**¹ In my view, the application seeking the relief sought is thoroughly misconceived as the Applicants have lost in the courts below and therefore they cannot seek the application of the principles laid down by the Apex Court in Atmaram Properties (Supra). Hence the relief in so far as the deposit @ Rs.35,000/- per month with arrears @ 9 % is required to be rejected.

2 However, the Learned Counsel for the Applicants Mr. Gharat states that though the Respondents are in possession of the suit premises, not a single farthing has been paid since the year 2005. It seems that the agreed rent is Rs.200/- per month. In so far as the said amount of Rs.200/- per month is concerned, it is the case of the Respondent that though the said amount was sent, the same was refused. It is not necessary for this Court to go into the said aspect. The Learned Counsel appearing for the Respondents Mr. Patil on

1 (2005) 1 SCC 705

instructions of the Respondent No.2 Mr. Hemal Harish Mehta makes a statement that the rent @ 200/- per month with arrears from 2005 would be deposited in this Court within 6 weeks from date. Statement accepted. The Civil Applications are accordingly disposed of.

[R.M.SAVANT, J]