

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 657 OF 2015
IN
CIVIL REVISION APPLICATION NO. 740 OF 2014**

Ravindra Chandrashekhar Kale ..Applicant(Ori. Resp. No.2)

In the matter between

Shivanand Shivram Nadkarni .. Applicant(ori. Defendant)

V/s.

Bhagirathi Chandrashekhar Kale & Ors. .. Respondents (Ori. Plaintiffs)

Mrs. Aneeta Wasani i/b Omprakash Pandey for the Applicant.
Mr. C.P. Deogirikar for ori. Applicant.

**CORAM : K. K. TATED, J.
DATED : 16/03/2016**

P.C.:

. Heard learned Counsel for the parties.

2 This application is preferred by landlord for fixing monthly compensation in respect of suit premises i.e. Room No.3 situated on the ground floor Dhanvantari Niwas, 9, Subhash Road, Vile Parle (E) Mumbai - 400 057 admeasuring 310 sq. ft. from Rs.6,500/- to Rs.21,000/- per month.

3 The learned counsel for the landlord submits that this Court (Coram : M.S. Sonak, J) by order dated 24.07.2015 admitted Civil Revision Application No. 740 of 2014 filed by the tenant challenging

the concurrent findings of both the Courts below by which the tenant directed to handover the vacant and peaceful possession of the suit premises to the landlord. She submits that this Court by order dated 24.07.2015 directed the tenant to deposit sum of Rs. 6500/- by way of compensation with effect from 01.04.2014 with liberty to the landlord to place on record relevant documents for enhanced compensation. Hence, landlord filed the present Civil Application for enhanced compensation.

4 The learned counsel for the landlord submits that in the same locality where the suit premises is situated, the market rate per month on leave and leave and licence basis is more than Rs.21,000/-. In support of this contention, the learned counsel for the landlord relies on leave and licence agreement dated 15.09.2015 between Mrs. Smita S. Padhye and Mr. Ramesh S. Thombre. By that leave and licence, the licensee agreed to pay sum of Rs.21,000/- per month as licence fee in respect of flat at 105, first floor, Pooja Co. Op. Hsg. Soc., Sant Janabai Road, Vile Parle (E), Mumbai – 400 057 admeasuring about 450 sq. ft. carpet area. She submits that on the basis of leave and licence agreement dated 15.09.2015, this Hon'ble Court be placed to direct the tenant to deposit sum of Rs.21,000/- per month instead of Rs.6,500/- as directed by this Court by order dated 24.07.2015.

5 On the other hand, the learned counsel for the tenant vehemently opposed the present Civil Application. Tenant filed his Affidavit-in-Reply 05.01.2016. The learned counsel for the tenant submits that building in which the suit premises is situated is more

than 61 years old. Whereas, the building which stated in leave and licence agreement dated 15.09.2015 is not more than 10 years old. He further submits that the tenant is occupying the suit premises since 1960. The rent was Rs.256/- per month. He submits that when the tenant preferred appeal before the Appellate Bench of Small Causes Court being Appeal No. 4 of 2013, at that time, the Appellate Court directed tenant to deposit the compensation @ Rs.5,000/- per month. He submits that the tenant complied the said order. He further submits that even when this Court by order dated 24.07.2015 directed tenant to deposit the compensation @ Rs.6500/- with effect from 01.04.2014, the tenant deposited the said amount upto the date.

6 The learned counsel for the tenant submits that suit premises is situated in a building known as Dhanvantari Niwas, which is 61 years old and there is no society, but tenanted premises. Therefore, it has less market value as compared to the premises situated in co-operative housing society. He submits that in co-operative housing society the common maintenance of surrounding area and staircases are properly and meticulously carried out. He further submits that in the suit premises there is no open space, no place for parking their vehicles. He further submits that suit premises is not self contained. There is a common W.C. Which is outside the premises. He submits that the copy of leave and licence relied by the landlord shows that in that flat two bed rooms are self contained with W.C. and other facilities. Hence, that cannot be compared with the suit premises for fixing monthly compensation. Hence, there is no substance in the present Civil Application and same to be rejected.

7 I heard both the sides at length. There is no dispute that the building in which the suit premises is situated is more than 61 years old. There is no common facilities like parking, open space, compound wall. Apart from that, the suit premises is not self contained. There is common W.C. as well as water supply. Considering this fact and amenities available to the flat which is stated in leave and licence, the compensation fixed by this Court at the time of passing ad-interim order dated 24.07.2015 is reasonable.

8 Hence, following order is passed:

a) Tenant to deposit in this Court the compensation in respect of suit premises @ Rs.6,500/- per month as per earlier order dated 24.07.2015 till the hearing and final disposal of the Civil Revision Application No. 740 of 2014.

b) Tenant to deposit the said compensation on or before 10th of each month.

c) If there are any three defaults on the part of the tenant to deposit the compensation, liberty granted to the landlord to move this Court for vacating the interim order.

d) The Registry is directed to invest the entire amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the Civil Revision Application No. 740 of 2014.

e) Civil application stands disposed off accordingly.

(K.K.TATED, J.)