

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.78 OF 2016
IN
CIVIL REVISION APPLICATION NO.219 OF 2015**

Shri Sharif Ibrahim Darekar	..Applicant
In the matter between	
Smr. Gracy D'Monte (deceased) through LRS	..Applicants
Vs.	
Shri Sharif Ibrahim Darekar	..Respondent

Mr. Siddharth Ronghe for the Applicant
Mr. R. M. Nakhawa i/b Mr. V. D. Dhavan for the Respondent/original Applicant

CORAM : R. M. SAVANT, J.
DATE : 3rd MAY, 2017

P.C.

1 The above Civil Application has been filed by the Respondent seeking a direction that the original Civil Revision Applicant be directed to deposit an amount of Rs.10,100/- per month towards interim compensation in respect of the suit premises bearing House No.794 admeasuring 541 sq.ft. situate at Taboot Street Dastoor Meher Road, Pune Camp, Pune 411001. In support of the said claim the Applicant has relied upon the report of Architect Arti Sanghvi, Government Approved Valuer. The said valuer has taken into consideration the rates mentioned in the Ready Reckoner and has thereafter arrived at the value of the structure by deducting 60% as the depreciated value. The value of the structure has been arrived at Rs.17,31,200/- for the purposes of computing the mesne profits. The valuer has concluded that

Rs.10,100/- can be the expected rent from the suit premises.

2 It is required to be noted that the suit premises are two rooms in a chawl which is ground floor structure which chawl was originally having 8 rooms. It seems that the Respondent i.e. the Applicant herein has demolished 6 rooms and has constructed an independent structure for himself.

3 Be that as it may, the structure wherein the suit premises is situated dates back to the year 1938 and is having a roof of mangalore tiles. The Civil Revision Applicant also disputes the area in his occupation and it is the contention of the Civil Revision Applicant that the area which is in occupation is only 275 sq.ft. where as it is the contention of the Applicant in the above Civil Application that the Civil Revision Applicant is in occupation of an area of 541 sq.ft. It is also the contention of the Civil Revision Applicant that there are common facilities for water and toilet. The contractual rent is Rs.50 per month. In terms of the principles applicable by virtue of the judgment of the Apex Court in M/s. **Atmaram Properties (P) Ltd. Vs. Federal Motors Pvt Ltd.**¹ and **State of Maharashtra Vs. Supermax International Pvt. Ltd.**² and also having regard to the nature of the structure as also the facilities available to the tenant i.e. the Respondent to the above Civil Application, it would be just and proper to fix the interim compensation @

1 2005(1)SCC 705

2 AIR 2010 SC 722

Rs.3500/- per month. This would be apart from the contractual rent that is payable by the Respondent as also the property taxes that are payable by the Respondent. The Learned Counsel appearing for the Respondent states that property taxes up to 31-3-2017 have been paid by the Respondent to the Pune Cantonment Board and that the receipts would be placed on record. The interim relief is confirmed on the aforesaid condition of deposit of Rs.3500/- per month. The said deposit would be from 1-1-2017. The arrears to be deposited within 8 weeks from date in this Court. It is however made clear that if the arrears are not deposited within the time stipulated by this order or if there are any two consecutive defaults in deposit of monthly compensation, the interim order would then stand vacated.

[R.M.SAVANT, J]