IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 76 OF 2016
IN
CIVIL REVISION APPLICATION NO. 340 OF 2015

Maharashtra Jeevan Pradhikaran	..	Applicant
In the matter between :		
Maharashtra Jeevan Pradhikaran	..	Applicant
vs.		
Indian Express Newspapers (Mumbai) Ltd.	..	Respondent

None for Applicant.
Dr. Abhinav Chandrachud with Mr. Amol Joshi and S. Shaikh i/b. P. Kamani for Respondent.

CORAM : M. S. SONAK, J.
DATE: 28 AUGUST 2017

P.C :

1] None for the applicant – tenant.

2] Heard Dr. Chandrachud for the respondent – landlord.

3] In terms of orders dated 19th October 2015 and 2nd February 2017, the amount of reasonable compensation is required to be determined.

4] Dr. Chandrachud places on record affidavit of Dillon Pereira, Chief Financial Officer and Authorized Signatory of the respondent along with valuation report. He submits that copies of this affidavit and valuation report has been served upon the original applicant some time in February of 2016. The applicant, has not placed any material on record for the purposes of determining reasonable compensation, which, the applicant is required to deposit as a pre-condition for continuing in possession of the suit premises on the basis of interim orders.

5] The suit premises admeasure 2150 sq. ft. and are situate on the fourth floor of the building known as Express Tower at Nariman Point. Valuation report points out that Nariman Point is an important commercial area of Mumbai where all civic amenities are available in abundance. Many offices of multi national companies, undertakings, banks are located in this area. Mantralaya (Sachivalya), Air India Building, Oberoi Hotel etc. are also in the immediate vicinity.

6] As per the valuation report, he urged that compensation had determined rates between Rs.298/- per sq. ft. to Rs.400/- per sq. ft. for the purpose referred to in paragraph 8 of the affidavit.

7] This Court, in its order dated 19th October 2015 had directed the applicant to deposit compensation at the rate of Rs.137.50 per sq. ft. per month. At this stage, the learned counsel for the respondents had submitted that the compensation would in fact being in the range of Rs.250/- per sq. ft. per month.

8] There is also reference to determination of mesne profits by the trial court by its order dated 15th November 2011. Such mesne profits were determined at the rate of Rs.100/- per sq. ft. per month. The appeal court has made the eviction decree on 6th May 2015.

9] Taking into consideration the valuation report and the other material produced on record, the area of the suit premises, the location of the suit premises, the payment capacity of the applicant, it will be appropriate if the applicant is directed to deposit reasonable compensation at the rate of Rs.225/- per sq. ft. per month as a condition for continuing in occupation of the suit premises in pursuance of the ad interim relief, which can now be confirmed. Some credence is required to be given to the determination of mesne profits, particularly since there is no challenge to this determination by the respondent. Accordingly, it is not possible to determine reasonable compensation at the rates indicated in paragraph 8 of the affidavit, rather, it will be appropriate if compensation is determined at the rate of Rs.225/- per sq. ft. per month.

10] Ad interim relief granted earlier is therefore confirmed. However, it shall be subject to the applicant depositing in this Court reasonable compensation at the rate of Rs.225/- per sq. ft. per month effective from 1st May 2015. The applicant shall be entitled to credit for the amounts already deposited by them in terms of this Court's order dated 19th October 2015. Time limit for deposit of differential arrears of the compensation amount shall be eight weeks. In case of failure to deposit, and further in case of any two consecutive defaults or three non consecutive defaults, the interim order now confirmed shall stand vacated without any further reference to this Court.

11] The Registry to invest the amounts so deposited in the nationalized bank or any appropriate financial institution.

12] The applicant to file usual undertaking in the Registry within a period of four weeks from today.

13] Dr. Chandrachud points out that in terms of the order of the appeal court, the respondents have been withdrawing amount of Rs.32,753/- per month. If this be so, the respondents are permitted to continue to withdraw the said amount until further orders. Further, the respondents are at liberty to take out appropriate application seeking for withdrawal of further amounts. Such application as and when made, will be considered on its own merits and in accordance with law. The Registry to accordingly invest the balance amount in terms of the aforesaid directions.

14] The applicant, after deposit of arrears, is at liberty to take out a fresh application seeking liberty to carry out repairs. In view of such liberty, this civil application is disposed.

(M. S. SONAK, J.)

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