

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2314 OF 2016

Smt. Shashikala K. Shetty and others

..Petitioners

Versus

Mr. Amaejeetsingh Pyarasingh Khanuja

..Respondent

Shri. P. J. Thorat i/by Shri. Mihir S. Raje for the Petitioners.

Shri. J. S. Kini i/by Shri. Suresh Dubey for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 12th APRIL, 2017

PC.

1 Leave to amend so as to correct the name of the Respondent from "Amaejeetsingh" to "Amarjeetsingh". Amendment to be carried out forthwith.

2 The above Writ Petition takes exception to the order dated 29.12.2015 passed by the Learned District Judge-7, Pune, by which order, an application Exh.4 came to be allowed as also application Exh.15 filed by the Respondent/landlord came to be partly allowed. The Petitioners herein are in Appeal against the decree passed by the Trial Court i.e. the Learned Judge of the Small Causes Court, Pune in Suit No.300 of 2009. The said decree has been passed on the ground of bonafide requirement of the Respondent/landlord. In the Appeal filed by the Petitioners being Civil Appeal No.211 of 2015, the Petitioners filed an application for stay of the decree being Exh.4, whereas the Respondent/landlord filed an

application Exh.15 praying for the relief of stay be granted subject to interim compensation at Rs.1,00,000/- to be paid by the Appellants i.e. the Petitioners herein.

3 The suit premises are admeasuring 1200 sq.ft. being the built up area and consist of two bed rooms, living room, kitchen etc. The premises are situated in Rasta Peth, which can be said to be in old Pune. The Respondent in support of his case that the interim compensation be fixed at Rs.1,00,000/- has relied upon the rates mentioned in the ready reckoner. On behalf of the Petitioners reliance was placed on a Leave and Licence agreement dated 11.12.2014 which agreement was in respect of the identical premises which are situated adjoining to the suit premises wherein licence fees have been mentioned as Rs.15,000/-. The Appellate Court whilst granting stay of the decree has imposed the condition that the Petitioners pay compensation at the rate of Rs.37,000/- per month from the date of application. The said figure has been arrived at by taking into consideration the ready reckoner rates and multiplying the same with the area of the suit premises and thereafter coming to a conclusion that the sum of Rs.37,000/- would be fair compensation for the premises in question. In the said context, it is required to be noted that the Petitioners are in occupation since the year 1971 and the contractual rent is Rs.393.75 per month. The building is about 50 years old and as

indicated above, the building is situated in one of the old areas of Pune i.e. Rasta Peth, in my view, considering the fact that the Appellate Court has fixed the fair compensation taking into consideration the ready reckoner rates which are meant for computing the stamp duty whose applicability in the context of fixing the fair compensation can be disputed.

4 In my view, it would be just and proper to fix the compensation by increasing the interim compensation fixed by this Court i.e. Rs.15,000/- by a sum of Rs.5000/- so as to make the total of Rs.20,000/- per month. This would serve the interest of justice, as on the one hand the Respondent/landlord would get a reasonable compensation for the premises in question on the other hand the amount would not be such as would be impossible for the Petitioners to pay. Hence the order passed by the Lower Appellate Court dated 29.12.2015 in so far as it directs the payment of interim compensation at Rs.37,000/- is modified to the extent that the interim compensation payable by the Petitioners would be at the rate of Rs.20,000/- per month. The same to be paid from December 2016. In so far as the arrears on account of the difference which would arise on account of the instant order, the Petitioners to deposit the same within six weeks from date. In so far as the monthly payment is concerned, the same to be paid on or before 10th of each

month.

5 The Respondent would be entitled to file an application for withdrawal of the amount which application would have to be filed by him before the Small Causes Court, it would be for the Small Causes Court to determine the quantum that can be allowed to be withdrawn as also the condition on which such withdrawal can be permitted.

6 In the facts and circumstances of the case, the hearing of the Appeal is expedited. In the light of the above, the Writ Petition to stand disposed of.

[R.M.SAVANT, J]