

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2232 OF 2017**

Domnic Peter Fernandes

...Petitioner

Versus

Hitesh Ashok Aswani

...Respondent

Mr SS Redekar, *for the Petitioner.*

Mr Pradeep Ramchandran, *for the Respondent.*

CORAM: G.S. PATEL, J

DATED: 27th November 2017

PC:-

1. Heard.

2. The Writ Petition is directed against an order dated 22nd February 2016 by which the Court of Small Causes at Mumbai fixed interim compensation of Rs.20,000/- per month for the suit shop. The Petitioner licensor says that the amount fixed is too low.

3. The Trial Court had regard to the decision of the Supreme Court in *Atma Ram Properties (P) Ltd v Federal Motors Pvt Ltd*.¹ Consequently, it is not possible in this Writ Petition to arrive at the kind of determination the Petitioner seeks.

1 (2005) 1 SCC 705.

4. The Petition is disposed of without interfering with the impugned order but granting liberty to the licensor to file a fresh substantive application before the Trial Court for enhancement if so advised. That application will be heard and decided on its merits with all contentions being specifically kept open.

5. The Writ Petition is disposed of in these terms. No costs.

(G. S. PATEL, J.)