

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6274 OF 2017

Kishorkumar Khanderao Pitale .. Petitioner
vs.
Aarti Dhananjay Chonkar & Anr. .. Respondents

Mr. Sameer K. i/b. Pratima Shelar for Petitioner.
Mr. Dilip Aras for Respondent No. 1.
Ms Vaishali Nimbalkar – AGP for Respondent No. 2.

CORAM : M. S. SONAK, J.
DATE: 25 SEPTEMBER 2017

P.C :

- 1] Not on board. Upon production, taken on production board.
- 2] Rule. Rule is made returnable forthwith with the consent of and at the request of learned counsel for the parties.
- 3] The challenge in this petition is to the condition that the petitioner deposits an amount of Rs.8,000/- per month as a condition for continuing in possession of the suit premises on the basis of interim order staying the decree of eviction made against the petitioner.
- 4] Learned counsel for the petitioner submits that the respondent- landlady, who is incidentally, the sister of the petitioner, had applied for mesne profits at the rate of Rs.4,500/- per month,

which amount, has been decreed. Accordingly, there was no justification for the appeal court to determine reasonable compensation at the rate of Rs.8,000/- per month.

5] Learned counsel for the petitioner further submits that the petitioner is a senior citizen and suffering from paralysis. His wife and daughter expired and he lives alone. He points out that his total income is Rs.15,000/- per month.

6] Learned counsel for the respondent points out that mesne profits at the rate of Rs.4,500/- per month were determined in the year 2008. He points out that there are agreements in respect of same premises which would establish market rate is more than Rs.8,000/- per month. He points out that even the respondent is a senior citizen. He submits that there is no case made out to interfere with the impugned order.

7] Upon due consideration of the submissions as well as the material on record, it is required to be noted that the petitioner, in this case, is a senior citizen who is suffering from paralysis. Since upon demise of his wife and daughter, he has really no one else to look after him. His income from all sources does not exceed Rs.15,000/- per month. This is a matter, which was required to be considered by the learned appellate bench. Upon consideration of

the same, this is a fit case to reduce compensation amount from Rs.8,000/- to Rs.5,000/- per month.

8] The compensation amount is therefore ordered to be reduced from Rs.8,000/- to Rs.5,000/- per month. In respect of rest of the impugned order, there is no case made out for interference.

9] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

10] Further, considering the fact that both the petitioner as well as the respondent are senior citizens, the hearing of the appeal before the appellate bench of the Small Causes Court is expedited.

11] The time limit for deposit of arrears, if any, is extended by a period of four weeks from today.

12] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)