

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.545 OF 2016
IN
CIVIL REVISION APPLICATION NO. 892 OF 2012**

Ignatius S. Jadhav

..Applicant

Vs.

Smt. Asha Dattatraya Shinde

..Respondent

Mr. P. D. Dalvi for the Applicant

Mr. Jayant Gaikwad for the Respondent

CORAM : R. M. SAVANT, J.

DATE : 30th MARCH, 2017

P.C.

1 The above Civil Application has been filed for the following relief:

(a) The Applicant may be permitted to withdraw a sum of Rs.31090/- towards excess rent deposited by the present Applicant with the Court of Civil Judge Jr. Division, Kalyan deposited in Regular Civil Suit No.477 of 2000.

2 The said relief has been sought on the basis that the Applicant has paid rent in excess to the tune of Rs.31090/-. It is required to be noted that the above Civil Revision Application filed by the Applicant was dismissed by a Learned Single Judge of this Court by order dated 23-6-2016 and resultantly the eviction decree came to be confirmed. The matter was carried to the Apex Court by the Applicant. The SLP filed by the Applicant has also been dismissed

by the Apex Court, however the Apex Court directed the Applicant to hand over possession by 31-1-2017. In accord with the said directions of the Apex Court that the possession of the suit premises was handed over to the Respondent landlord on 31-1-2017.

3 In the context of the relief sought by the Applicant, the Learned Counsel for the Respondent has prepared a statement showing the amount that is refundable to the Applicant. The said statement comprises of two parts that is the amount which the Applicant is liable to pay to the Respondent on account of the rent and the second part consists of the amount which has been paid by the Applicant as property tax to the KDMC and the amount which is deposited by the Applicant in the Civil Court Kalyan pursuant to the directions which were issued whilst the proceedings were pending in the Courts below.

4 The liability of the Petitioner on account of rent is as follows:

Particulars	Amount
(i) Rent from August 1996 to May 2000 @275/- per month (i.e. 3 years and 10 months)	Rs.12,650/-
Rent from June 2000 to January 2013 @275/- per month (i.e. 12 years and 8 months)	Rs.41,800/-
Rent from February 2013 to January 2017 @550/- per month as per order passed by His Lordshp Mr. Justice S. C. Dharmadhikari on 4 th February 2013 (i.e. 4 years)	Rs.26,400/-
Total Rent till January 2017	Rs.80,850/-

(ii) Property tax paid by Applicant to KDMC	Rs.19,815/-
(iii) Amount deposited in Civil Court Kalyan	Rs.77,000/-
(iv) Rent due and payable till January 2017	Rs.61,035/-
Hence the excess amount refundable to the Applicant	Rs.15,965/-
$ \begin{array}{r} \text{Rs.19,815} + \text{Rs.77,000} = \text{Rs.96,815} \\ \phantom{\text{Rs.19,815} + \text{Rs.77,000}} - \text{Rs.80,850} \\ \hline \phantom{\text{Rs.19,815} + \text{Rs.77,000}} \text{Rs.15,965} \end{array} $	

Copy of the said statement was also furnished to the Learned Counsel appearing on behalf of the Applicant Mr. P. D. Dalvi. On going through the said statement, the Learned Counsel Mr. Dalvi fairly accepted the calculation. Hence though the Applicant by way of prayer clause (a) of the above Civil Application has sought refund of the excess amount to the tune of Rs.31090/-, the Applicant would be entitled to the refund of only Rs.15,965/- which has been paid in excess by the Applicant. The Civil Application is therefore allowed to the said extent. The Respondent would be entitled to withdraw the amount from the Civil Court Kalyan within one week from date. The Respondent through her Advocate Mr. Gaikwad undertakes to refund the amount of Rs.15,965/- to the Applicant within one week thereafter. The Civil Application is accordingly disposed of.

5 The parties to act on the ordinary copy of this order duly authenticated by the Court Shirestedar / Associate.

[R.M.SAVANT, J]