

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9993 OF 2017

Smt. Ansibai R. Choudhary and anr. .. Petitioners
vs.
Smt. Sudha Madhukar Pathak and ors. .. Respondents

Mr. Siddharth C. Wakankar for the Petitioners.
Mr. Ravi G. Shinde for the Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 05 OCTOBER 2017.

P.C. :-

1] Heard Mr. Siddharth C. Wakankar, learned counsel for the petitioners and Mr. Ravi G. Shinde, learned counsel for Respondent No.1.

2] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

3] The challenge in this petition is to the determination of compensation at the rate of Rs.40,000/- per month by the Appeal Court in its order dated 31st July 2017.

4] From perusal of the impugned order, it appears that the Appeal Court is almost entirely relied upon the Ready Reckoner Rate, without ascertaining precise area of the suit premises, the age

of the suit premises, the amenities available to the suit premises and the financial capacity of the petitioners. All these aspects are required to be taken into consideration in terms of the decision of the Hon'ble Supreme Court in *Atma Ram Properties (Private) Limited Vs. Federal Motors Private Limited*¹ and *State of Maharashtra & anr. Vs. M/s. Super Max International Pvt. Ltd. & Ors.*².

5] From the material on record, it is clear that reasonable compensation cannot be less than Rs.20,000/- per month and therefore, this Court, by order dated 20th September 2017 by way of ad-interim relief had permitted the petitioners to deposit compensation at the rate of Rs.20,000/- per month in respect of Rs.40,000/- per month. Learned counsel for the respondent-landlord, however, submits that determination of compensation at the rate of Rs.40,000/- is just and proper. He submits that if opportunity is granted, the respondent will produce the material to support such determination. On the other hand, Mr. Wakankar, learned counsel for the petitioners, submits that the compensation be maintained at Rs.20,000/- since the suit premises are located at

1 2005(1) SCC 705

2 2009(5)ALL MR 1001

Pimpri and further, the Appeal Court has incorrectly included a portion of the lane in determination of the area of suit premises.

6] Taking into consideration the aforesaid contentions, the interest of justice will be met, if directions are issued to the petitioners to continue to deposit compensation at the rate of Rs.20,000/- as an ad-interim measure. Accordingly, such directions are hereby issued. Thereafter, both the parties are given liberty to file affidavits and place the material before the Appeal Court in form of valuation reports, leave and licence agreement etc., so as to assist the Appeal Court to determine reasonable compensation in terms of the law laid down by the Hon'ble Supreme Court in cases of *Atma Ram Properties (supra)* and *M/s. Supermax International Pvt. Ltd. (supra)*. The parties to complete this exercise within the period of four weeks from today. The Appeal Court, is then directed to redetermine the reasonable compensation on the basis of such material, which may be produced by the parties. Under no circumstances, however, the determination of reasonable compensation shall be lesser than Rs.20,000/- per month.

7] Rule is disposed of in the aforesaid terms. There shall however, be no order as to costs.

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

(M. S. SONAK, J.)