

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 326 OF 2017
IN
CIVIL REVISION APPLICATION (STAMP) NO. 26033 OF 2017

Shantilal Kunverji Poladia .. Applicant
vs.
Praful Kumar Raghavji Kenia (deleted)
Darshana Praful Kumar Kenia .. Respondent

Mr. Phiroz Bharucha i/b. Mr. A. Sheth for Applicant.
Mr. D. Vyas with Mr. N. Vyas i/b. Yagnesh Vyas for Respondent.

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

P.C :

- 1] Not on board. In view of urgency, taken on production board.
- 2] Heard learned counsel for the parties.
- 3] Learned counsel for the applicant submits that in fact, there is no delay in institution of the CRA. However, by way of abundant caution, application for condonation of delay was filed explaining the delay of 15 days.
- 4] Considering, the averments in the civil application, and without going into the issue as to whether there is any delay or not, the civil application is made absolute in terms of prayer clause (a).

- 5] CRA is taken up for admission and grant of ad interim reliefs.
- 6] Having heard the learned counsel for the parties, a case is made out for grant of Rule. Accordingly, Rule.
- 7] There shall be ad interim relief in terms of prayer clause (b) of the CRA. It shall however be subject to the following conditions:-
- (A) The applicant to file usual undertaking in this Court within a period of two weeks from today, after furnish of copy to the learned counsel appearing for the respondent;
 - (B) The applicant shall deposit in this Court compensation at the rate of Rs.20,000/- per month effective from 1st August 2017 within a period of four weeks from today. The deposit to be made on or before the 5th day of each succeeding month.
- 8] The aforesaid determination is only on *ad hoc* basis taking into consideration the area of the suit premises and its location i.e. Matunga. Learned counsel for the respondent however submits that the market rent for the suit premises would be in the range of Rs.51,000/- or thereabouts. Learned counsel for the applicant disputes this position and states that the market rent would be Rs.20,000/- or thereabouts, at the maximum.

9] The parties are granted liberty to file additional affidavits and place valuation reports as well as other material on record to assist this Court in determining the rate of reasonable compensation in terms of the decision of the Hon'ble Supreme Court in ***Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.***¹ and ***State of Maharashtra & Anr. vs. M/s. Super Max International Pvt. Ltd. & Ors.***² This will be taken into consideration at the stage of confirmation of ad interim relief.

10] It is however directed that in case of any two consecutive or three non consecutive defaults, this ad interim order will stand vacated without any further reference to this Court.

11] Place the matter after six weeks for confirmation of ad interim order and determination of reasonable compensation.

(M. S. SONAK, J.)

Chandka

1 (2005) 1 SCC 705

2 2009 (5) ALL MR 1001