

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 8 OF 2017
IN
CIVIL REVISION APPLICATION NO. 636 OF 2013**

Kamleshsingh Harnamsingh Chowhan ...Applicant

IN THE MATTER BETWEEN

Kirit Prabhulal Kapadia ...Applicant

Versus

Kamleshsingh Harnamsingh Chowhan ...Respondent

Mr.Vivek Kantawala a/w Mr.Amey Patil in/by M/s.Vivek Kantawala
and Company for the Applicant

Mr.Jyotsna Vyas for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 29th AUGUST 2017

P.C.

1. In respect of premises No.A-27, which is virtually adjacent to the suit premises, this Court, by its order dated 16th February 2016 in Writ Petition No.1061 of 2016 has determined reasonable compensation at the rate of Rs.10,000/- per month. Incidentally, even the premises A-27 are in the occupation of the very same petitioner, who, in the present matter, is in occupation of premises A-28.

2. Ms.Vyas the learned counsel for the tenant however submits that this Court, in its order dated 16th February 2016 has not taken into consideration the circumstances that the building itself is semi pucca construction or that the tenant is aged 61 years carrying on the occupation of the tutor.

3. On the basis of the aforesaid submission, it is not possible to vary the rate determined by this Court, in its order dated 16th February 2016. As noted earlier the petitioner in Writ Petition No.1061 of 2016 is the same as the petitioner in the present petition.

4. Accordingly, compensation is determined at Rs.10,000/- per month.

5. The ad-interim relief granted on 14th October 2013 is hereby confirmed subject to the petitioner depositing in this Court reasonable compensation at the rate of Rs.10,000/- per month effective from 01st January 2014, since, this application was filed on 01st December 2013. In fact, as a matter of principle such compensation is required to be deposited at least from the date of the eviction order made by the Appellate Authority. However,

taking into consideration the submissions made by Ms.Vyas, direction for deposit shall operate from 01st January 2014. The arrears to be deposited within three months. The compensation amount to be deposited on or before the 08th day of each succeeding month.

6. In case of failure to deposit the arrears within the prescribed period or in case of any two consecutive defaults or three non-consecutive defaults interim order now confirmed shall stand vacated without further any reference to this Court.

7. In addition, the tenant to file usual undertaking in this Court within a period of four weeks from today.

8. The Civil Application is disposed of.

(M. S. SONAK, J.)