

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2183 OF 2017
IN
WRIT PETITION NO. 4426 OF 2015

Seth Industries Pvt Ltd	...Applicant
In the matter between	
Veena Naresh Seth & Anr	...Petitioner
<i>Versus</i>	
Additional Commissioner Konkan Division & Ors	...Respondents

Mr Farhan Dubash, *i/b Bharat A Punekar, for the Petitioner.*
Mr Girish Godbole, *a/w Deepti Panda & Kunal Parekh, i/b Thakore*
Jarimala & Associates, for the Applicant/Respondent No.3.

CORAM: G.S. PATEL, J
DATED: 6th December 2017

PC:-

1. The Civil Application seeks some modification of the order dated 31st July 2015. By that order Mr Justice Sonak ordered compensation at the rate of Rs.25,000/- per month. This was in respect of a residential flat of about 2000 sq ft in Simplex House at Juhu. Mr Godbole for the Applicant, a private limited company which was originally the 3rd Respondent to the Petition, says there is a appurtenant 500 sq ft terrace.

2. Mr Dubash for the contesting Respondent to the Civil Application, Veena Naresh Seth and her son Suchit, a minor, and both

of whom were the original Petitioners, say that matters are far more complicated than this. Veena's late husband Naresh was one of the directors and principal shareholders of Seth Industries. There are several transactions regarding the property, including an English mortgage of the entire building, and the Petitioners are amongst the mortgagees in possession. A suit for redemption is pending in this Court. The matter originates out of a claim for possession filed by the company on the basis of an oral leave and licence agreement that expired in 1980, eviction being sought only in 2010. In the meantime, the Petitioners have also filed a separate declaratory suit in respect of this very flat.

3. Having regard to these circumstances, at least as far as the application for enhancement is concerned, I believe that Mr Dubash is correct in saying that this is not an appropriate case where enhancement should be ordered. The company may have obtained a valuation showing a much higher compensation rate, but these other factors are not ones that can be brushed aside. There is nothing in either *Atma Ram Properties (P) Ltd v Federal Motors Pvt Ltd*¹ or *State of Maharashtra & Anr v Super Max International (P) Ltd & Ors*² to suggest that other relevant circumstances are to be ignored while fixing monthly interim compensation. I do not think this is an appropriate case to grant this relief.

4. The Civil Application is dismissed. No costs.

(G. S. PATEL, J.)

1 (2005) 1 SCC 705.

2 (2009) 9 SCC 772.