

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION (ST.) NO.32152 OF 2017
IN
P. APPEAL NO.101 OF 2017**

The Saranagati Co-operative Housing
Society Ltd.

..Applicant/org.
Defendant

Vs.

Shri.Ebrahim Mohammed Husein
Khatri & Ors.

..Defendants/org.
Plaintiffs

Ms.Rama Subramanian for Applicant.

Applicant – Mr.Ramaniyan, Belani and Mr.Alexander present for
Society.

Mr.A.S. Khandparkar with Mr.Amogh Karandikar i/b.M/s.
Khandeparkar & Associates for Respondent Nos.1 to 3.

CORAM : G.S. KULKARNI, J.

DATE : 19th DECEMBER, 2017

P.C.:

I have heard learned Counsel for the parties.

2. Learned Counsel for the applicant contends that the impugned order by which the appellate court has directed the applicant to deposit an amount of Rs.1 Lakh per month as compensation as a condition for stay of decree dated 10th January 2017 is unreasonable. The submission is that there are 17 flats and the owners of the said flats are members of the applicant society

and even an amount of Rs.5,000/- per month to be contributed to collect the amount of Rs.1,00,000/- would be unreasonable.

3. Mr.Khandeparkar, learned Counsel for respondent Nos.1 to 3-decree holders, submits that the orders are reasonable and appropriate considering the location of the premises. It is submitted that considering the facts and circumstances of the case, no interference is called for.

4. Having considered the submissions as made at the bar, I am not impressed with the submission made on behalf of the applicant. On perusing the impugned order, the appellate bench of the Small Causes Court applying proper principles of law and for reasons which are appropriate, has arrived at the said amount. However, considering the fact that some of the members are senior citizens/pensioners, to some extent the amount may be reduced, is the argument of the petitioner. Mr.Khandeparkar however opposes this request.

5. Considering the above background, in my opinion, it would be appropriate to reduce the deposit to an amount of Rs.60,000/- per month. Accordingly, the impugned order shall stand modified to the extent the deposit shall be at Rs.60,000/- per month instead of Rs.1 lakh per month.

6. Applicant is permitted to deposit arrears at the rate of Rs.60,000/- per month within a period of one month from today.

7. Application is accordingly disposed of in above terms. No costs.

8. Needless to observe that if the amount so directed is not deposited, the above direction shall forthwith stand vacated and the original order shall be available for execution.

9. The parties are at liberty to approach the appropriate appellate bench to seek early hearing of the appeal.

[G.S. KULKARNI, J.]