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

WRIT PETITION NO. 7395 OF 2017

Hanmant Kisan Karande

... Petitioner

Versus

Anusuya Hanumantrao Barge & ors.

... Respondents

Mr. Milind Ashokrao Ingole, for the Petitioner.

Mr. Rushikesh C. Barge, for the Respondent.

CORAM : R. M. BORDE, J.

DATE : 29th OCTOBER, 2018.

P.C.:-

1. An order passed by the Trial Court directing the original Defendant to deposit a sum of Rs.2,000/- per month towards compensation or the damages for the user of the rented premises even after passing of the decree by the Trial Court is the subject matter of this Petition. The suit property is situate at village Koregaon, Taluka Koregaon, District Satara and has been let out to the Defendant. The landlord - the original Plaintiff served notice terminating the tenancy and asking the Plaintiff to handover the possession of the suit

premises in view of the provisions of Section 106 of the Transfer of Property Act, 1882. In spite of termination of the tenancy and issuance of direction to handover the possession, the Defendant failed to handover the same. As such, the Plaintiff was constrained to approach the Trial Court seeking recovery of possession of the property.

2. The suit presented by the Plaintiff had been decreed by the Trial Court by the judgment and order dated 1st September, 2014. The Defendant, who is in possession of the property belonging to the Plaintiff, has approached the First Appellate Court and challenged the decree passed by the Trial Court on 1st September, 2014. The Appeal tendered by the Defendant is registered as Appeal No.231 of 2014. In the Appeal, the original Defendant tendered an application for interim protection from eviction and for stay of execution of the decree passed by the Trial Court. The First Appellate Court allowed the application tendered by the Defendant subject to condition to deposit the monthly compensation of Rs.2,000/-.

3. The Defendant presented an application seeking review of the said order to the First Appellate Court. However, the application was turned down. It is submitted by the

Defendant that the monthly rent settled was far less. It must be born in mind that the Defendant was put in possession of the property admittedly belonging to the Plaintiff and he has been directed to vacate the premises and handover the possession to the Plaintiff. A notice was served by invoking the provisions of Section 106 of the Transfer of Property Act, 1882. Admittedly the Maharashtra Rent Control Act, 2009 will not be applicable to the village where the property is situated. According to the Plaintiff, the compensation that has to be levied shall be in consonance with the market value and considering the rate of rent prevailing in area, the monthly compensation that has been awarded by the First Appellate Court is quite less. According to the Defendant, the rent of the premises in the vicinity is about Rs.10,000/- per month. It would not be necessary to investigate into the factual aspect as regard how the quantum of compensation has been arrived at by the First Appellate Court. I do not find that the First Appellate Court has committed any serious error in directing the Defendant – Petitioner herein to deposit the amount of compensation at the rate of Rs.2,000/- per month towards the user of the premises during the pendency of the appeal. In exercise of extra-ordinary jurisdiction

exercised by this Court under Article 227 of the Constitution of India, no interference is called for.

4. The Petition is devoid of any substance and as such stands rejected. No order as to costs.

[R. M. BORDE, J.]