

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

**WRIT PETITION NO. 506 OF 2017
WITH
CIVIL APPLICATION NO. 609 OF 2017**

Suleman Amin Waikar & Anr.	...	Petitioners
V/s.		
Amit Vasant Jadhav & Anr.	...	Respondents

- Mr.Vishwajeet Sawant, Senior Advocate a/w. Mr.Nitin S. Dhumal for the Petitioners.
- Mr.Girish Godbole, Senior Advocate a/w. Ms.Shruti Tulpule for Respondent No.1.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 15th MARCH, 2018.

P.C. :

1] Heard learned counsel for the Petitioners and learned counsel for Respondent No.1.

2] By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioners are challenging the order dated 14th October 2016 passed by the Civil Judge Senior Division, Karad, thereby directing the Petitioners to pay the interim arrears of rent at the rate of Rs.10/- per sq.ft. per month to the Respondent-Plaintiff from the date of institution of the suit till final decision of the suit.

3] The perusal of the order passed by the trial Court shows that the trial Court has, in this respect mostly relied upon the judgment of the Hon'ble Apex Court in the case of *Atma Ram Properties (P) Ltd. V/s. Federal Motors Pvt. Ltd - 2005(3) Bom.C.R.274*, which pertains to the fixing of interim rent in Appeal challenging the decree of eviction passed in the suit. Here, in the case, the suit is still pending before the trial Court. In view thereof, it has to be considered, what is the agreed rent. According to the Petitioners the agreed rent of suit premises is Rs.160/- per annum from the year 2011 to 2016. However, the averments in the plaint go to show that since January 2010, the rent of the suit premises was increased to Rs.10,000/- per month and accordingly, the Petitioner has agreed the same and also paid the rent upto March 2010.

4] In view thereof, the rent fixed by the trial Court at the rate of Rs.10/- per sq.ft. per month which goes to Rs.2,51,000/- per month is definitely on higher side, even having regard to the fact that the suit premises are being used by the Petitioners for the commercial purpose, in which the Petitioner is running the garage. Hence, considering its area of 26R, in my opinion, the interim rent at the rate of Rs.20,000/- per month would be just and reasonable.

5] Accordingly, the Writ Petition is allowed. The impugned order passed by the trial Court is modified and the Petitioners are directed to deposit interim rent at the rate of Rs.20,000/- per month in the trial Court from the date of institution of the suit till final decision of the suit.

6] The trial Court to invest the said amount in any Nationalized Bank.

7] It is made clear that, this is purely an interim arrangement. The amount of the rent fixed by this Court or this order will not influence the trial Court at the time of deciding the final suit or the quantum of rent.

8] The Petitioners to deposit the arrears of the amount of rent within two months and continue to pay the rent at the rate of Rs.20,000/- per month.

9] In view of disposal of the Writ Petition, nothing survives in the Civil Application and therefore, it stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]