

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

**CIVIL APPLICATION NO.342 OF 2018
IN
CIVIL REVISION APPLICATION NO.436 OF 2013**

Ramesh Shivram Palav .. Applicant
(Orig. Respondent)

Vs.

Kashinath Sagarmal Gupta (deceased) .. Respondents
1(a) Smt. Ushadevi Kashinath Gupta and Ors. (Orig. Applicants)

Mr.P. K. Dhakephalkar, Senior Advocate I/b Jagdish G. Aradwad
(Reddy) for the Applicant.

Mr. P.J. Thorat, Advocate for the petitioners in Cri. Revision Application
No.436 of 2013.

CORAM : M.S. SONAK, J.

DATE : 17 DECEMBER 2018.

P.C.:-

. Heard learned Counsel for the parties.

2 The Appeal Court in the present case dismissed the applicant's Appeal against eviction decree made by the Trial Court on 13.03.2013. Since the year 2013, the applicants continue in possession of the suit premises on basis of ad interim or interim orders made by this Court.

3. This Civil Application has been taken out by the respondent landlord seeking directions to the applicant to deposit compensation in terms of the ruling of the Hon'ble Apex Court in the case of **Atma Ram Properties Pvt. Ltd. Vs. Federal Motors Pvt. Ltd., 2005 (1) SCC 705.**

The applicant has produced on record the valuation report suggesting that the market rent of the suit premises should be about Rs. 44,000/- per month.

4. Mr. Dhakephalkar learned Senior Advocate for the respondent landlord submits that there are concurrent decrees requiring the applicant in the Civil Revision Application to vacate the suit premises which are required for bonafide requirement of the landlord. He submits that since 2013 no amounts have been paid or deposited by the applicants in the Civil Revision Application. He submits that the premises are at Parel and admeasured 444 sq. ft. He therefore submits that directions are liable to be issued to the applicant to deposit Rs.44,000/- per month.

5. On the other hand, Mr. Thorat learned Counsel for the original applicant (tenant) submits that valuation report is over inflated. He points out that the building where the suit premises are located is about 80 years old. He points out that the landlords have themselves let out premises in the same building for rent of Rs.1500/- per month. He states that compensation at the rate of maximum Rs.4000/- may be directed to be deposited.

6. In the present case, the Appeal Court, have determined the compensation at the rate of Rs.5,000/- per month in the year 2011. This amount, was not challenged by either parties. In the year 2013, therefore, some enhancement was certainly due. The compensation amount was further required to be enhanced in the year 2018 as we now consider the direction for deposit.

7. The amount of Rs.4,000/- proposed by the applicant (tenant) is certainly not acceptable. So also, the amount of Rs.44,000/- proposed by the landlords also cannot be accepted.

8. In my judgment, considering that the direction for depositing compensation from 13.03.2013 onwards, the interest of justice will be made if the applicant (tenant) is directed to deposit in this Court compensation at the rate of 10,000/- per month. This is the appropriate figure considering the rival contentions, the state of the building as well as its location. Mr. Dhakepalkar learned Senior Advocate for the landlord submits that in some cases premises were let out for 1,500/- because the original tenants brought in some other parties and the landlord was left with no realistic choice.

9. Accordingly, Civil Application is disposed of by directing tenants to deposit in this Court compensation at the rate of Rs.10,000/- per month effective from 01.06.2013 such deposit to be made on or before the 5th day of each succeeding month. The time limit of deposit of arrears shall be three months. This deposit shall be a condition for operation of the interim orders staying the execution of eviction decrees. In case of any two consecutives or three non consecutives in defaults, the interim order to stand vacated. Civil Application No.342 of 2018 is disposed of.

10. Considering that the landlord is a senior citizen, the hearing in the Civil Revision Application is expedited. The registry to accord the Civil Revision Application the seniority which is accorded to matters involving senior citizens.

(M.S. SONAK, J.)