

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4851 OF 2016
IN
FIRST APPEAL NO.487 OF 2017

Laxman Jawahar Kanoujia ... Applicant

Vs.

Saroj Lacchan Kanojia & anr. ... Respondents

Mr.Omrakash Pandey for the Applicant
Mr.A.R. Mishra for Respondents

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JANUARY 31, 2018**

P.C.:

1. Report of the Mediator is received informing that the mediation has failed.
2. This is a dispute pertaining to a room admeasuring 10'/15', where two brothers are residing alongwith their families. The entire premises of the original plaintiffs i.e., the respondents, is a ground plus structure, as described in the plaint. The suit filed by the original plaintiffs is decreed by judgment and order dated 20.9.2016 passed by the learned Judge of the City Civil Court, Goregaon, Mumbai and the defendant and his family members were directed to hand over

the vacant and peaceful possession of the suit premises to the plaintiff. Hence, this appeal by the defendant.

3. At the time of hearing of the Civil Application for stay to the impugned judgment, which is preferred by the appellant/defendant, it was argued by the respondents that stay can be granted only after directing the appellant / original defendant to pay some monthly compensation pending appeal, to the respondent, who is a decreeholder.

4. None of the parties have brought any document or proof to evaluate the market rent or the amount of compensation on what basis the amount of compensation of the suit premises can be fixed. Therefore, considering the area where the suit room is located i.e., Sanjay Nagar, Meghwadi, Jogeshwari (East) and the area of the suit room, I am of the view that an amount of Rs.4,000/- as monthly compensation would be appropriate. The appellant shall accordingly pay Rs.4,000/- from the date of filing of the appeal, without prejudice to the rights and contentions of the parties and subject to the outcome of the appeal to the respondents/original plaintiffs. This amount is to be deposited in the High Court on or before 10th day of each month and the same shall be allowed to be withdrawn by the

respondents/original plaintiffs upon furnishing a permanent undertaking, without any security, that they will repay the entire amount, if at all the appellant succeeds in the appeal. The impugned judgment and order dated 20.9.2016 is stayed pending appeal.

5. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)