

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAS] No.152 of 2013
IN
Second Appeal No.81 of 2013
[Jusbedabi Mohammad Siddique & others Vs. Iqbal Haji Kasam]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr S. S. Joshi, Adv., for the applicants.

Ms. Sharma, Adv., holding for Mr. S. V. Purohit, Adv., for non-applicant.

CORAM : A. S. CHANDURKAR, J.

DATE : 16th January, 2018

By this application, it is prayed that the decree for possession along with amount of damages be stayed during pendency of the appeal.

It is submitted that the applicants are in possession of the suit property and also willing to pay the agreed amount of compensation without prejudice to their rights. Though attempts were made to pay the amount of compensation, the same was not accepted by the non-applicant.

The application is opposed by the learned counsel for the non-applicant on the ground that both the Courts have held in his favour. As the amount of compensation was being tendered in a different name, it

was not accepted.

The appellate Court by the impugned decree has directed the applicants to hand over possession of the suit property to the non-applicant. The appeal has been admitted after framing substantial questions of law. The decree has been stayed as per order dated 6th February, 2013. In view of aforesaid, the following order is passed:-

The applicants shall clear all arrears of rent for the period from 1st February, 1994 till date, excluding the amount of rent already deposited. This deposit shall be made within a period of six weeks from today. The applicants shall continue to pay a sum of Rs.72-00 [rupees seventy-two only] per month during pendency of appeal. It is open for the non-applicant to seek enhancement in the amount of compensation.

Subject to aforesaid, the interim stay shall continue to operate during pendency of the appeal.

Civil Application is disposed of.

Judge