

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3040 OF 2017
IN
WRIT PETITION NO. 3463 OF 2016

Life Insurance Corporation
of India .. Applicant
In the matter of
Bhupendra Singh Sethi and anr. .. Petitioners
vs.
Life Insurance Corporation and anr. .. Respondents

Mr. D.B. Pereira for the Applicant -LIC.
Mr. Atul Damle, Sr. Advocate a/w. Mr. Avinash H. Fatangare
for the Petitioners.

CORAM : M. S. SONAK, J.
DATE : 23 APRIL 2019.

P.C. :-

- 1] Heard learned counsel for the parties.
- 2] The delay in making payment at the rate of Rs.10,000/- per month in terms of the order of this Court dated 28th March 2016 is condoned. This is because Mr. Damle, learned senior advocate of the original petitioners, today hands over a pay order in an amount of Rs.1,60,000/- to the learned counsel appearing for the LIC. With this payment, the original petitioners shall not be deemed to be in default of condition for payment in terms of order dated 28th March 2016 at least till date.

3] This Civil Application seeks enhancement of the compensation amount from Rs.10,000/- to Rs.91,000/-.

4] The record indicates that this amount of Rs.10,000/- was fixed by the City Civil Court on ad-hoc basis. By order dated 28th March 2016, the Estate Officer has determined the compensation at the rate of Rs.29,416/- per month. This has been confirmed by the City Civil Court. It is against this order of the City Civil Court, the respondent has instituted Writ Petition No. 3463 of 2016.

5] Taking into consideration that the suit premises ad-measure 456 sq.ft and are located at Sita Building in Girgaon, Mumbai and further, taking into consideration the fact that admittedly, the suit premises have put to commercial use, it is only appropriate that the compensation amount is enhanced from Rs.10,000/- to Rs.25,000/- per month with effect from 1st January 2019. Mr. Damle, on the basis on instructions from the respondents, has stated that the suit premises have put to commercial use.

6] However, Mr. Damle, learned senior advocate for the original petitioners, is right in his submission that normally such amounts are required to be deposited in the Court and not directly paid to the landlord. In terms of the earlier orders, the original petitioners were directed to pay amount of Rs.10,000/- per month to the LIC. The same position, can continue and is ordered to continue in terms of the earlier order dated 28th March 2016. However, the original petitioners, in addition to the aforesaid, to deposit in this Court each month an amount of Rs.15,000/- per month on or before the 5th day of each succeeding month. The arrears to be cleared on or before 5th July 2019 together with second installment. The first installment/deposit shall have to be made on or before 5th June 2019.

7] It is clarified that in case of any two consecutive defaults or three non-consecutive defaults, both in payment of Rs10,000/- to LIC or in deposit of Rs.15,000/- in this Court, the interim order on basis of which the original petitioners continue in possession of the suit premises to stand vacated without further reference to this Court.

8] Registry is directed to invest the amounts deposited by the original petitioners in a suitable financial Nationalised Bank initially for a period of one year.

9] Civil Application is disposed of in the aforesaid terms.

10] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)