

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 188 OF 2017
IN
WRIT PETITION NO. 2100 OF 2006

Shubhangi Anant Kadam & Anr. Applicants
(Org.Petitioners)

IN THE MATTER BETWEEN

Shubhangi Anant Kadam & Anr. Petitioners

VERSUS

**The Mumbai Building Repairs &
Reconstruction Board & Ors.** Respondents

Mr.Dinesh A.Barot for the Applicants/Petitioners.

Ms.Aparna M. Kalathil, I/b. Mr.P.G.Lad for the Respondent nos. 1 and 2.

Mr.Chetan Kapadia, a/w. Mr.Sharad Wakchoure, I/b. M/s.Kishore Thakordas & Co. for the Respondent no.3.

Mr.Anant Vadgaonkar, a/w. Mr.R.Y.Sirsikar for the Municipal Corporation of Greater Mumbai.

CORAM : R.D. DHANUKA, J.

DATE : 20th JUNE, 2019

P.C.

By this notice of motion, the applicants (original petitioners) seek enhancement of the monthly compensation payable by the respondent no.3 from Rs.12,000/- per month to Rs.23,000/- per month from 1st July, 2016 onwards and for various other directions.

2. Learned counsel appearing for the parties invited my attention to the order dated 15th November, 2014 passed by Shri M.S.Sanklecha, J. in Notice of Motion No.208 of 2014 enhancing the compensation from Rs.9,000/- to Rs. 12,000/- and granting further liberty to seek enhancement after a period of two years.

3. It is the case of the applicants that the applicants have been paying rent to the tune of Rs.22,000/- to Rs.23,500/- for occupying the temporary alternate accommodation. Mr.Kapadia, learned counsel appearing for the respondent no.3 developer states that this court may pass an order of enhancement as this court may deem fit.

4. Taking into consideration the averments made by the applicants that they are paying rent to the tune of Rs.22,000/- to Rs.23,500/-, in my view, interest of justice would be met with if the applicants who would be deprived of the possession of their tenaments in the building being constructed by the respondent no.3 for some more time, respondent no.3 shall pay the compensation of Rs.20,000/- per month w.e.f. 1st July, 2016 till 30th June, 2019 and for another two years from today.

5. Mr.Kapadia, learned counsel appearing for the respondent no.3 states that insofar as the arrears at the rate of Rs.20,000/- per month from 1st July, 2016 till the month of June 2019 is concerned, the same would be paid to the applicants within three weeks from today.

6. Insofar as the compensation for the month of July 2019 onwards for a period of two years is concerned, the same would be paid on the due date as already being paid in past regularly.

7. It is made clear that the respondent no.3 would be liable to pay only the difference of Rs.8,000/- w.e.f. 1st July, 2016 till this month and would pay at the rate of Rs.20,000/- for the month of July 2019 onwards for the next two years. Statement made by the learned counsel for the respondent no.3 is accepted as and by way of undertaking to this court.

8. Insofar as the question as to when the respondent no.3 will handover possession of the tenaments to the applicants in the building being constructed by the respondent no.3 is concerned, Mr.Kapadia, learned counsel appearing for the respondent no.3 states that he would file an affidavit within four weeks from today and would indicate the proposed date of handing over possession to the applicants. He also invited my attention to the affidavit in reply filed by his client dated 20th November,2017 and more particularly paragraph (2) and would submit that the applicants would be given 300 sq.ft. carpet area instead of 180 sq.ft. carpet area as per the amended plans. The statement made in the affidavit is accepted as and by way of undertaking to this court.

9. The respondent no.3 is accordingly directed to file affidavit within four weeks from today and shall indicate in detail the proposed date of handing over the possession to the applicants.

10. The applicants would be at liberty to apply for further enhancement of the compensation after expiry of two years if the possession of the tenaments offered is not handed over within two years subject to the further orders to be passed by this court after considering the affidavit indicating the tentative date of the possession is filed by the respondent no.3.

11. Notice of motion is disposed of on the aforesaid terms. No order as to costs.

12. Place the writ petition on board after six weeks for directions.

[R.D.DHANUKA, J.]