

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 2254 OF 2020**

Jyoti Paneri
Versus
Edwin A. D'Souza

...Petitioner

...Respondent

Mr. Girinkumar N. Pandit for the Petitioner

Ms. Vasudha Narvekar for the Respondent

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 11th MARCH 2020

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner has impugned the order dated 29th January 2020 passed by the learned Ad-hoc District Judge, Court of Small Causes Court, Mumbai, below Exhibit 6 in A-1 Appeal No. 12/2020, by which, the learned Judge was pleased to stay the execution and operation of the impugned decree dated 26th September 2019 passed by the trial Court, subject to the petitioner depositing compensation in respect of the suit premises at the rate of Rs. 8,000/- per month from the date of the decree with effect from 26th September 2019 up to January 2020 within one month from the date of passing of the impugned order as well as the

direction to deposit compensation at the same rate thereafter till the appeal is disposed of.

3 Learned counsel for the petitioner submits that the direction to deposit the compensation in respect of the suit premises i.e. Rs. 8,000/- per month, is extremely harsh, having regard to the area of the suit premises which is about 100 odd sq. ft. He submits that the petitioner lives by herself in the said premises and as such has no source of income.

4 Learned counsel for the respondent opposes the petition and submits that no interference is warranted in the impugned order. She submits that the room is situated in a prime locality in Vile Parle (West) and that the said room would fetch rent of approximately Rs. 13,000/- per month.

5 Without going into the merits of the impugned order, having regard to the fact that the appeal against the judgment and decree dated 26th September 2019 passed by the trial Court is pending before the Appellate Bench-Small Causes Court at Mumbai, it would be appropriate to modify the impugned order dated 29th January 2020 on the following terms :

- (i) Instead of depositing Rs. 8,000/- per month, the petitioner to deposit Rs. 5,000/- per month;
 - (ii) The said amount of Rs. 5,000/- per month will be deposited by the petitioner with effect from 26th September 2019 upto March 2020, within four weeks from today;
 - (iii) The petitioner shall continue to deposit the compensation of Rs. 5,000/- per month with effect from April 2020 onwards till the petitioner's appeal is disposed of by the appellate Court. The said amount will be deposited by the petitioner on or before 10th day of each succeeding month in the appellate Court.
- 6 Rest of the order in terms of clauses (5) and (6) passed by the appellate Court to remain as it is.
- 7 Having regard to the facts, the hearing of the appeal pending before the appellate Court is expedited.
- 8 Petition is accordingly disposed of on the above terms.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.