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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 381 OF 2016
IN
CIVIL REVISION APPLICATION NO. 373 OF 2012**

Myron Pereira & Ors.

..Applicants.

Vs

Khadija Ahmed & Ors.

..Respondents

Mr. Pradip Kadam for Applicants.

Mr. Naushad Engineer a/w Mr. Sharad Bansal i/b Mr. Nikhil Wodikar for Respondents.

CORAM : A.S.GADKARI, J.

DATE : 17th January 2020.

P.C.:

1] This is an application by the original respondents/landlord for fixing monthly compensation at the market rate of Rs.2,65,000/- to the suit property from the date of passing of Decree, till today, with further direction to pay the said compensation to the Respondents/landlords during the pendency of the Revision Application.

2] For the sake of brevity the parties herein will be hereinafter referred to as revision applicants/tenants and the respondents as landlords.

3] The record indicates that, the respondents/landlord had filed a suit bearing R.A.E. Suit No.1292/4094 of 1987 in the Court of Small Causes Mumbai for eviction of the revision applicants, under the Bombay Rent Act. The said suit was decreed on 29.1.2004 by the learned Judge, Court of Small Causes at Mumbai and the applicants/tenants were directed to deliver possession of the suit premises to the

respondents. The respondents thereafter preferred an appeal before the Appellate Bench of the Small Causes Court which came to be dismissed by an Order dated 29.2.2012. During the pendency of the appeal, the revision applicants have deposited a sum of Rs.3.00 lakhs in the Registry of Trial Court towards arrears of rent.

Feeling aggrieved by the dismissal of the appeal, the revision applicants preferred the present Revision Application on 4.5.2012. The present Revision Application has been admitted by this Court on 17.10.2012 and interim relief is granted in favour of the applicants.

4] By the present Application, the applicants/landlords have prayed that, the revision applicants/tenants be directed to pay a sum of Rs.2,65,000/- per month as monthly compensation from the date of passing of the Decree till today and to direct the applicants to pay it during the pendency of the present Revision. In support of its contention, the respondents/landlords have produced on record a valuation report dated 24.11.2012 in respect of the suit property. The Valuer has opined that, the reasonable rent of the suit premises which it may fetch in market is Rs.2,65,000/- per month. The said Valuer has arrived at the said amount on the basis of area of the suit premises i.e. 850 sq.ft and its location i.e. it is facing the main road i.e. Girgaon Road where there is well a grown infrastructure.

5] In response to the present application, the revision applicants/tenants have filed reply and contended that the Valuer of the respondents have not taken into consideration the correct area of the shop premises. The applicants/tenants have produced on record their Government Valuer's report dated 14.6.2017 It is stated

therein that, the area of the suit premises is approximately 607.30 sq.ft. That Valuer of the applicants/tenants has therefore suggested appropriate rent which the suit premises may fetch in market is Rs.20,832/- per month which includes property taxes and repair-cess .

6] It is an admitted position on record that, the suit premises is a commercial premises, situated on the ground floor of the building. It is located in densely populated area of Mumbai. The said area is also commercial and trading hub of Mumbai, where innumerable commercial activities such as trading and other related activities takes place. Assuming for sake of argument that, the area mentioned by the Valuer in its report dated 14.6.2017 relied upon by the applicants/tenants is correct, then also the Valuation submitted by it, appears to be undervalued. That the valuation produced by the respondents/landlord of the year 2012 depicting approximately rent which the suit property may fetch to the tune of Rs.2,65,000/- per month appears to be, not only proper but reasonable too.

7] Mr. Engineer, the learned counsel for the applicants/tenants submitted that, the applicants are suffering from financial crisis. He submitted that, at the suit premises there is no flourishing business and therefore the applicants/tenants are not in a position to pay the said monthly compensation to the landlord. He submitted that, his clients are also facing difficulties in their personal life and therefore unable to pay the compensation suggested by the Valuer of the respondents/landlord.

8] After taking into consideration the aforestated fact and the submissions made by Mr. Engineer appearing for the revision applicants/tenants, with a view to have

equity in the matter and to meet ends of justice, according to me, monthly compensation of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) in respect of the suit premises will be just and reasonable compensation to be paid by the applicants/tenants to the landlords from the date of passing of Decree till the decision of the Revision Application.

9] In view thereof, the applicants/tenants are directed to clear arrears of compensation from 29.1.2004 till 31.1.2020 within a period of six months from today in three equal installments. The applicants are further directed to continue to pay monthly compensation of Rs.1,50,000/- to the respondents/landlord during the pendency of the Revision Application on or before 10th day of every calendar month.

10] Civil Application is allowed in the aforesaid terms.

11] Hearing of the Civil Revision Application is expedited.

(A.S.GADKARI, J.)