

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

Bhalchandra  
G. Dusane

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**CIVIL APPLICATION NO. 2029 OF 2019  
IN  
WRIT PETITION NO.4028 OF 2014**

Mr. Satish Chhaganlal Khatri .... Applicant

Vs.

Mr. Bharat Jaywant Yelkar .... Respondent

Mr. Prasad Sarvankar i/by Mr. Chaitanya Nikte for Applicant.  
Ms. Ayesha Keshodwala i/by Mr. Vikram Chavan for Respondent.

**Coram : NITIN W. SAMBRE, J.  
Date : 27<sup>th</sup> NOVEMBER, 2020**

P.C.:

1. In view of the judgment of the Apex Court in the matter of Atma Ram Properties (P) Ltd. Vs. Federal Motors (P) Ltd., reported in (2005) 1 Supreme Court Cases, 705 and State of Maharashtra and Another Vs. Supermax International Private Limited and Others, reported in (2009) 9 Supreme Court Cases, 772, learned counsel for the original petitioner / non applicant herein has opposed the prayer for withdrawal of the amount of compensation deposited in this Court.

2. My attention is invited to the observations made in the order dated 2<sup>nd</sup> March, 2016, wherein this Court (Coram : R.M. Sawant, J.) has permitted to withdraw the amount of Rs.5,500/- per month, which was the agreed rent.

3. As far as the aforesaid objection is concerned, it appears that the basis for the same is that in case the Petitioner succeeds, whether the said amount can be recovered from the applicant/respondent landlord.

4. The fact remains that the suit property is a shop, which is in possession of the present non applicant/original Petitioner.

5. The order of depositing amount of compensation is based on the considerations as are reflected in the order dated 31<sup>st</sup> August, 2015.

6. In view of above, it will be appropriate in my opinion, to allow the present application in terms of prayer clauses (a) and (b) subject to

the undertaking to be furnished to this Court that in case Petitioner succeeds, the amount of compensation will be redeposited in this Court alongwith interest @ 6% within a period of four weeks from the date of such order of allowing the petition.

7. The application as such allowed in above terms.

( NITIN W. SAMBRE, J. )