

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPLICATION NO.2325 OF 2017**  
**IN**  
**FIRST APPEAL NO.422 OF 2019**

**Dayanand Madhav Mapuskar                      ]            Applicant**

**Vs.**

**Narasinha Krishna Balgi and others.   ]            Respondents.**

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Mr. S.S. Redekar, for Applicant.

Mr. R.A. Thorat, Senior Advocate a/w Mr. Pradeep J. Thorat, for Respondents.

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**CORAM : PRITHVIRAJ K. CHAVAN, J.**

**DATE : 23<sup>rd</sup> MARCH, 2021.**

**P.C.**

1. Heard Mr. Redekar, learned Counsel for the applicant and Mr. Thorat, learned Senior Counsel for the respondents.

2. Pursuant to an order passed by this Court on 13<sup>th</sup> January, 2020 permitting the applicant to submit a valuation report showing the present market rent value of the property, the applicant has submitted valuation report of one Mr. K.M. Ashtaputre, registered Architect and Government approved valuer.

3. After having inspected the suit property admeasuring about 1245.00 square feet which is at walking distance of 10 minutes from Grant Road Railway Station and in a good locality, he considered that it would fetch fair market rent to the tune of Rs.1,25,000/- per month.
4. Whereas, the valuation report submitted on behalf of the respondent of one Mr. S.R. Patil, Government approved surveyor has assessed the market rent of the suit property @ Rs.1,95,000/- per month.
5. Learned Senior Counsel for the respondents, however, accepts valuation report prepared by Mr. A.M. Ashtaputre on behalf of the applicant which is @ Rs.1,25,000/- per month.
6. As such, the applicant is directed to deposit entire arrears of monthly compensation @ Rs.50,000/- from December, 2014 onwards till date, within eight weeks from today.
7. The applicant shall continue to deposit the monthly compensation @ Rs.50,000/- per month till the final decision of the appeal, on or before 10<sup>th</sup> day of each calendar month.
8. The respondents are permitted to withdraw arrears *qua* compensation @ Rs.50,000/- per month. The respondents may continue to withdraw monthly compensation until further orders.

9. The applicant shall also deposit arrears of fair market rent @ Rs.1,25,000/- per month from 2<sup>nd</sup> May, 2017 till today within eight weeks from today.
10. The applicant shall continue to deposit fair market rent @ Rs.1,25,000/- per month pending the hearing and final disposal of the appeal for the ensuing months on or before 10<sup>th</sup> day of each month.
11. Arrears of market rent @ Rs.1,25,000/- be invested in the fixed deposit initially for a period of three years.
12. If the applicant fails to deposit the amount of compensation and arrears within eight weeks from today in this Court, stay granted to the execution of the decree shall stand vacated automatically without further reference to the Court.
13. If there are two consecutive defaults in depositing future amount of compensation and the market rent, the stay shall stand vacated without further reference to the Court.
14. The City Civil Court is directed to permit the applicant to withdraw Rs.1,40,00,000/- with accrued interest, if any, as expeditiously as possible.
15. It is made clear that there is no stay for conducting an inquiry into mesne profits.

16. The application stands disposed of.
17. The parties to act upon an authenticated copy of this order.

**[PRITHVIRAJ K. CHAVAN, J.]**