

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

**WRIT PETITION NO. 680 OF 2021
WITH
INTERIM APPLICATION NO.3010 OF 2022**

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2022.08.04
10:23:43
+0530

Deepak Shankar Narkar

(As per Gazette Copy)

Ratnadeep Shankar Narkar (earlier name) ..Petitioner

Versus

M/S. Ish Homes Private Limited & Ors. ..Respondents

Mr. Tanvir Abdul Hamid Shaikh, for the Petitioner.

Mr. Javed A. Khan, for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 22nd JULY, 2022

P.C.

1. Challenge in the petition is to the Order dated 6th February 2020, whereby the Appellate Bench of the Small Causes Court, Mumbai has directed the petitioner to deposit compensation of Rs.30,000/- (Thirty Thousand Only) per month. The said order is assailed by the petitioner/tenant on the ground that the premises of which the petitioner is in possession of is around 214 sq.ft. in chawl which was constructed in 1940. According to him, considering the location of said chawl, nature of construction, amount of compensation awarded based on ready reckoner rates is not justified. So as to substantiate his claim, he would draw my attention to the documents

viz. leave and licence agreement dated 13th March, 2022 executed between Mrs. Surve Snehal and Mr. Kar Suman in relation to an Apartment/Flat No.213 having built up area of 250 sq.mtrs., which is informed to be 250 sq.ft., so also the leave and licence agreement dated 4th August, 2021 between Lourdes Ferrao and Rakhee Shivram Lotikar. He would as such urge that the compensation at the most can be awarded at the rate of Rs.40 per sq.ft.

2. He would further urge that the order impugned has failed to consider the aforesaid issue and that being so warrants interference.

3. Prayer is opposed by the counsel for the respondent/landlord on the ground that the amount of compensation ordered by the Court below is based on the valuer's report, the fact that the applicant is not residing in the suit premises. He would dispute the very authenticity of the documents which are relied on by the petitioner so as to substantiate the claim of exorbitant award of compensation.

4. I have appreciated the said submissions.

5. The respondent/landlord has placed reliance on the valuer's report which speaks of compensation calculated at the rate of Rs.52,192/- per month as against

the claim of the tenant of Rs.8560/- per month at the rate of Rs.40/- per sq.ft.

6. The fact remains that the documents which are relied on by the petitioner along with his interim application viz. licence-deed referred (*supra*), though contained certain shortfalls, but can be taken into account for the purpose of determining the amount of compensation. This Court is required to be sensitive to the significant fact that the construction of the chawl was admittedly of 1940s and the premises are used for residential purpose. In this background, the award of compensation amount at the rate Rs.30,000/- appears to be quite exorbitant which is reduced to Rs.21,000/- per month.

7. With this modification, the petition stands partly allowed.

8. The amount of compensation, if any, deposited in the present proceedings be remitted to the Court of Small Causes with whom the appeal is pending, the said amount be made in fixed deposit as jointly requested.

9. Parties are at liberty to apply expeditious disposal of the appeal before the Appellate Court.

10. The entire arrears be deposited within a period of twelve weeks from today.

11. In view of disposal of petition, the interim application does not survive and accordingly stands disposed of.

[NITIN W. SAMBRE, J.]