

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 1440 OF 2020
IN
CIVIL REVISION APPLICATION NO. 174 OF 2019**

MR. GAUTAM SAILENDRANATH DEY AND ORSAPPLICANTS

V/s.

**SHANKAR R. SHIVKAR (DECEASED)RESPONDENTS
THR. DR. KRISHNA SHANKAR SHIVKAR
AND ORS**

Dr. Abhinav Chandrachud, Mr. Arun H. Mehta a/w Adv. Mittal
Bhanushali, Adv. Aniket Shrivastav i/b Akshar Laws Advocate for the
Applicant/original Respondent no. 1 in CRA
Mr. Sunil J. Kanojia & Mr. Sachin Y. Kanoujia Advocate for
Respondent in IA/original Applicant in CRA

CORAM : NITIN W. SAMBRE, J.

DATE: JUNE 29, 2022.

P.C.:

1) The landlord's claim for eviction came to be decreed vide
Judgment dated 07/12/2018 passed in Appeal No. 435 of 2009
which is the subject matter of challenge in Civil Revision Application
No. 174 of 2019. Said Revision came to be admitted by this Court on

18/11/2019 and the execution of the decree came to be stayed.

2) Based on the Judgment of the Apex Court in the matter of **Atma Ram Properties (P) Ltd. V/s. Federal Motors (P) Ltd.**¹, present Application is taken out by the landlord seeking directions by putting the tenant to a condition to deposit the amount of Rs. 54,000/- per month towards compensation payable in relation to per month compensation.

3) Dr. Chandrachud, counsel appearing for the landlord-Applicant would urge that valuation report dated 21/01/2020 substantiates the aforesaid claim. According to him, there is no counter to the said valuation report brought on record by the non Applicant-tenant. Considering the location of the property, user of the same, viz. commercial, the claim amount of compensation of Rs. 54,000/- is quite justified.

4) Prayer is opposed by the counsel for the tenant on the ground that while admitting Revision, this Court has granted interim relief after hearing the parties and that being so, he claims that Application at this stage is not maintainable. In addition, his

¹ (2005) 1 Supreme Court Cases 705

contentions are, tenant is using the premises for semi-commercial use viz. repair of radio. According to him, the structure is 70 years old and that being so, compensation at the most of Rs. 3000/- per month will be reasonable. His further contentions are, structure is about 70 years old and that being so, aforesaid compensation of Rs. 3000/- is quite justified.

- 5) Considered submissions.
- 6) Application for directions to the tenant to deposit the amount of compensation is based on the law laid down by the Apex Court in the matter of **Atma Ram Properties (P) Ltd.** [cited supra].
- 7) Report of the valuer in categorical terms speaks of building has already completed 70 years of its life.
- 8) Though the valuer's report justifies the claim for compensation of Rs. 54,000/- per month, however, what can be noticed from the perusal of the same is, claim made therein is exaggerated.
- 9) Having regard to the nature of property, its user and the area and the period of occupation of the tenant, it will be justified in my opinion to direct the tenant who is original Applicant in the Revision to deposit compensation of Rs. 11,000/- per month on or before 10th

date of each English calendar month from the date of Application preferred before this Court.

10) Needless to clarify that amount shall be made in the fixed deposit, in any nationalized bank, initially for a period of one year, to be renewed subsequent thereto till disposal of Revision.

11) Arrears of aforesaid compensation shall be deposited within period of three months from today.

12) Application stands disposed of in above terms.

[NITIN W. SAMBRE, J.]

IRESH SIDDHARAM
MASHAL

Digitally signed by IRESH
SIDDHARAM MASHAL
Date: 2022.07.04 10:41:53 +0530