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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3543 OF 2022
IN
CIVIL REVISION APPLICATION NO.623 OF 2009**

Dr. Vinay Krishnarao Thorat and OthersApplicants.

V/s

Sanjay Murlidhar Zope Respondent.

Mr. Nitin P. Deshpande for the Applicants.

Mr. Satyajeet A. Rajeshirke for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 26, 2022

P.C.:-

1] Based on the judgment of the Apex Court in the matter of *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.*, reported in (2005) **1 SCC 705**, decree holder has moved the present Application, seeking directions to deposit compensation.

2] Mr. Deshpande, learned Counsel appearing for the Applicant/decreed holder would urge that adjoining property similar to the one which is put to non-residential use is fetching monthly rent of Rs 30,000/-. He would further urge that similar flat is fetching rent of Rs 21,000/- in adjoining building. As such, according to him, Petitioner-non-applicant/judgment debtor be directed to pay amount of Rs 30,000/- per month. Claim is substantiated, based on certain

documents.

3] Mr. Rajeshirke, learned Counsel for the Respondent/judgment debtor would invite my attention to the order dated 2/8/2011 in which compensation is claimed to have been fixed @ Rs 1200/- p.m. According to him, flat in question is used for residential purpose and the non-applicant/judgment debtor is in advance stage of his life i.e. he is senior citizen. As such, he would urge that Court should have regard to the nature of use, the fact that decree holder has lost proceedings before the Trial Court and also the order of this Court referred above passed on 2/8/2011.

4] I have appreciated aforesaid submissions.

5] Fact about commercial property admeasuring 320 sq. ft is fetching monthly rental income of Rs 30,000/-, so also residential property admeasuring 750 sq. ft which is similarly situated as that of the suit property is fetching Rs 21,000/- as rent can be inferred from the available material on record. Admittedly, non-applicant/judgment debtor is in possession of flat on the ground floor, area of which is 690 sq. ft.

6] In the backdrop of statistic of the property on record as reflected in foregoing para, in my opinion, considering the area occupied by the non-applicant/judgment debtor which is 690 sq.ft. (Flat), it will be appropriate to direct the non-applicant/judgment debtor to deposit

amount of Rs 10,000/- in this Court towards compensation based on the judgment in the matter of *Atma Ram Properties (P) Ltd.*, cited supra. Let the aforesaid amount be deposited from the date of Application i.e. 01/03/2022. The entire amount of arrears be deposited in this Court within a period of three months from today. Non-applicant/judgment debtor shall before 10th of each English Calendar month shall continue to deposit the said amount of compensation in this Court.

7] Interim Application stands allowed in the aforesaid terms.

8] The order restraining non-applicant from creating third party interest in the property as was ordered by the Appellate Court is directed to be continued till decision of this Revision.

(NITIN W. SAMBRE, J.)