

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

WRIT PETITION NO. 5954 OF 2021

Ambavi Raghu Patel & Anr. ...Petitioners

V/s.

M/s. Ish Homes Private Limited & Anr. ...Respondents

Mr. Kishor Patil i/b. Ms. Aarti Bhide, for the Petitioners.

CORAM : G. A. SANAP, J.

DATE : 22 April 2022

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. Heard the learned Advocate for the petitioner at length at the stage of admission. With the assistance of the learned Advocate for the petitioners, I have gone through the record and proceedings.

2. The order impugned in this writ petition is dated 7 April 2021, whereby the learned Bench of the Appellate Court of the Small Causes rejected the application made at Exh.24 by the petitioner for waiving the amount of interim compensation from 1/3/2020 to 31/3/2021 and also for reducing the amount of interim compensation from Rs.35,000/- to Rs.15,000/- per

month.

3. In the appeal, filed by the petitioner bearing No. 303/2015, initially he was directed to deposit the monthly compensation at the rate of Rs.40,000/-. The said order was challenged by the petitioner. This Court vide order dated 13 April 2017 has partly allowed the prayer and reduced the monthly compensation from Rs.40,000/- to Rs.35,000/-. After this order again the petitioner made an Application before the Appellate Bench of the Small Causes Court with above prayer. The learned Bench of the Appellate court rejected the said application. It has been observed in the order that monthly compensation has been quantified by the High Court and as such it would not be within the powers of the Appellate Bench to reduce the monthly compensation and to allow the prayer made by the petitioner to waive said compensation.

4. Being aggrieved, the petitioner is before this Court. I have gone through the record and proceedings.

5. It is to be noted that the eviction decree has been passed against the appellant. The appellant applied for stay of the decree. The execution of the decree has been stayed subject to the payment of monthly compensation plus regular rent.

6. The learned Advocate submits that the petitioners are paying the regular rent however, due to Covid Pandemic situation, for one year, the compensation quantified by this Court could not be deposited.

7. In my view, no interference is warranted in the impugned order challenged in this petition. The reasons have been recorded. I am in full agreement with the observations made by the Appellate Bench of the Small Causes Court. The conditional stay has been granted. It would therefore be necessary for the petitioner to comply with the conditions of the stay. I do not see any substance in the petition. The writ petition is dismissed.

(G. A. SANAP, J.)