

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

**CIVIL WRIT PETITION NO.1463 OF 2022
A/W**

**INTERIM APPLICATION (ST.)NO.1485 OF 2021
A/W**

**INTERIM APPLICATION (ST) NO.95431 OF 2020
IN**

CIVIL WRIT PETITION NO.1463 OF 2022

**Kiran Nagindas Garodia Petitioner.
Vs.
Mrs.Kavita G. Kurani & Ors. Respondents.**

Mr.Atul Damale, Senior Counsel a/w Ms Sonam Mhatre, Ms Saloni Sulakhe
and Mr.Amit Mishra i/b Dhavan Vussonji & Associates for the petitioner.

None for respondent.

CORAM : N.R. BORKAR, J.

DATE : 7th MARCH, 2022.

PC.:

1. This petition takes an exception to the order dated 21.01.2020 passed by the Court of Small Causes, Bombay (Appellate Bench), below Exhibit 8 in Appeal No.352 of 2017.

2. The respondent/landlord herein had filed a suit for eviction and possession against the petitioner/tenant. The trial court decreed the suit and directed the petitioner to hand over the possession of suit premises to

the respondent. In an appeal filed by the petitioner against the Judgment and decree of the trial court, an application for stay to the execution of decree was moved. The Appellate Court by the order impugned stayed the execution of the decree subject to deposit of monthly compensation by the petitioner at the rate of Rs.40,000/- from the date of decree i.e. 11.8.2017 till disposal of the appeal.

3. The learned Counsel for the petitioner has invited my attention to the order impugned, and more particularly to paragraph no.14. The learned counsel submits that the deposit of compensation as a condition for stay to the execution of decree of eviction ought to be reasonable and not punitive. The learned Counsel on instructions submits that the petitioner is willing to pay monthly compensation at the rate of Rs.30,000/-.

4. The learned appellate court in paragraph No.14 has observed that suit building is in highly dilapidated condition. It appears that in the year 2014 in very same building another premises of equal area was let out at the monthly rent of Rs.18,000/-. The offer of the petitioner, therefore, appears to be reasonable. In the result, following order is passed.

ORDER

- 1) Petition is partly allowed.
- 2) Order impugned is modified and the petitioner shall deposit monthly compensation at the rate of Rs.30,000/- instead of Rs.40,000/-.
- 3) The amount paid by the petitioner till date, shall be adjusted in accordance with this order.

- 4) In view of disposal of the petition, the interim applications do not survive and are disposed of accordingly.

(N.R. BORKAR, J.)