

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

**CIVIL APPLICATION NO.402 OF 2016  
IN  
CIVIL REVISION APPLICATION NO.225 OF 2016**

Trust House Commerce Centre Pvt. Ltd. ..Applicant  
Versus  
Ms. Niloufer K. Bharucha and Ors. ..Respondents

Mr. Sanjiv A. Sawant, for the Applicant.  
Smt. Swati D. Sawant, for the Respondents.

**CORAM : NITIN W. SAMBRE, J.**

**DATE : 4<sup>st</sup> JULY, 2022**

**P.C.**

1. The present application is taken out for issuing directions to the respondents/tenants who have suffered a decree of eviction for failure to clear the arrears.

2. Drawing support from the judgment of Apex Court in the matter of **Atma Ram Properties (P) Ltd. Vs. Federal Motors Pvt. Limited** reported in **2005(1) SCC 705**, the land owner i.e. applicant has sought interim compensation of Rs.82,500/-. The aforesaid compensation is sought to be justified having regard to the area of 1,787 sq. ft. being occupied by the tenant. It is claimed that the property located in the commercial area viz. M. G. Road, Camp, Pune and has commercial value. It is claimed that

irrespective of the cost for which the property is being used by the tenant in view of the prevailing market rates which can be justified in view of the documents produced on record viz. valuation report and the other evidence, it is necessary to direct payment of compensation of 82,500/- per month as against rent of Rs. 2,000/- per month.

3. While resisting the aforesaid claim, counsel for the non-applicant/tenant would urge that the building in question is more than 85 years old and the non-applicant/tenant is occupying the premises for more than 80 years. It is also claimed that the Trial Court has dismissed the claim for eviction which was of non-user and arrears, however, the Appellate Court on the ground of arrears has granted decree of eviction.

4. In the aforesaid background, it is claimed that the tenant has fairly good case of being getting success before this Court and that being so, the application needs to be dismissed having regard to the expeditious hearing order passed by this Court on 14<sup>th</sup> June, 2017, as the non-Applicants are senior citizen.

5. I have appreciated said submissions.

6. The prayer for grant of interim compensation is based on the judgment of Apex Court in the matter of

*Atma Ram Properties (cited supra)*. It is also not in dispute that the non-applicant/tenant is occupying around 1800 sq.ft. of the area in commercial locality.

7. The fact that the premises are being used by the non-applicant at monthly rent of Rs.2,000/-, rightly so, the present application is based on the aforesaid rights flowing from the judgment of Apex Court in the matter of *Atma Ram Properties (cited supra)*. In this background, it will be appropriate, in my opinion, particularly having regard to the total area in the possession of the non-applicant/tenant part of which is used for semi-commercial purpose, the location of the premises in commercial area, it will be appropriate to direct the non-applicant/tenant to deposit an interim compensation of Rs. 15,000/- per month in this Court before 10<sup>th</sup> day of each English calendar month. The application stands allowed in above terms.

8. The aforesaid amount shall be deposited from the date of the application.

9. The arrears to be deposited within four months from today.

**[NITIN W. SAMBRE, J.]**