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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.18880 OF 2022
IN
CIVIL REVISION APPLICATION NO.164 OF 2022

Mr. Gopinath Harishchandra Ghag ...Applicant
In the matter between
Smt. Chandrabai Savlaram Sawant & Ors. ...Appellants

Versus

Mr. Gopinath Harishchandra Ghag ...Respondent

Mr. Omkar Nagwekar, for the Appellants.

Mr S.A. Jabbar with Avinath Naikwadi i/b. Sadik T. Pathan for the Respondent.

CORAM : R.I. CHAGLA J.

DATE : 21ST DECEMBER, 2022.

ORDER :

1. By this Interim Application, the Applicant / Respondent / Original Plaintiff is seeking directions against the Appellants in the Civil Revision Application to deposit the mesne profit as per Exhibit E of the Affidavit in Reply. It is to be noted that in the impugned judgment and order dated 30th September, 2016 of the Trial Court which has been upheld by the Appellate Bench, reference was made

to the Application for fixing standard rent being Miscellaneous Application No.104 of 2009 filed in respect of the tenanted premises. This application has remained to be determined.

2. In the Civil Revision Application No.164 of 2022, this Court by order dated 14th July, 2022 had noted that the Court below had failed to consider the issue of comparative hardship and in the opinion of the Court consideration regarding the sustainability of decree impugned on the ground of bonafide need, needed to be appreciated. There was accordingly stay granted to the execution of the warrant of possession. It was recorded that the claim of the Respondent / landlord being the original Plaintiff in the Regular Civil Suit No.736 of 2008 was deposit of arrears of rent. Liberty was granted to take appropriate proceedings to that effect in the pending proceedings initiated by the Applicant for fixing the standard rent.

3. The learned Counsel for the Appellant, in the Civil Revision Application has tendered Roznama and status of the application for fixing of standard rent which still remains to be determined, though having been filed in 2009 i.e. 3rd February, 2009. It is mentioned in the status report that the next date of hearing of the application for standard rent fixed by the Civil Judge,

Junior Division, Thane on 21st January, 2023. Accordingly, the Interim Application which has been filed by the Respondents to the Civil Revision Application seeking directions for deposit of mesne profit cannot be considered and appropriate application is required to be made by the Respondents in the District Court, Thane, wherein the standard rent application filed by the Applicants would be determined.

4. Accordingly, the Interim Application No.18880 of 2022 is disposed of by this Order.

5. The ad-interim relief which has been granted earlier by this Court on 10th November, 2021 directing that the possession warrant not to be executed and which has continued from time to time shall further continue till 1st February, 2023.

6. The Civil Revision Application shall be listed for admission on 1st February, 2023.

[R.I. CHAGLA J.]