

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

WRIT PETITION NO.12930 OF 2022

Shantibai Mithabhai Saravia (since deceased) ... Petitioners
Raju Mithabhai Sarvia (since deceased)
Ravi Mithabhai Saravia and ors.

Versus

Mohini Hiranand Chablani (since deceased) .. Respondents
thr. Lrs. Umesh Hiranand Chablani and ors.

Ms. Mandakini Kumari Sinh for the Petitioners.

Mr. Rajesh Datar a/w Ms. Druti Datar i/b. Amin Kherda for the
Respondents.

CORAM : NITIN W. SAMBRE, J.

DATED : 18th NOVEMBER, 2022

P.C.:

1. By the order impugned, the petitioners suffered an eviction decree which is the subject matter of challenge in the Appeal in which based on the judgment of the Apex Court in the matter of ***Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd***¹ and ***State of Maharashtra vs. Super Max International Pvt. Ltd. & ors***², the provisions of Order 15A of the Code of Civil Procedure 1908, the proceedings are taken issue for grant of compensation by the respondents which is allowed by the order impugned dated 28th September, 2022.

2. The Appellate Bench of the Small Causes Court, Mumbai has

1 [2005] (1) SCC 705

2 2009(5) ALL MR 1001

directed the petitioners / defendants to pay compensation of Rs.20,000/- from the date of decree i.e. 21st August, 2021 till the date of passing of the said order and thereafter continue to deposit the amount on or before 10th of each successive month, as such this Petition.

3. I have heard the respective counsel for some time.

4. It can be noticed from the reasoning furnished in the impugned order for the location of the suit property. The award of the compensation of Rs.20,000/- per month is not supported by any valuation report or otherwise.

5. In the aforesaid background, what can be noticed is that the award of compensation based on the location and the Ready Reckoner's valuation of the suit property which came to Rs.80 Lakhs can be justified. In response to the Court's query, Mr. Dattar, learned counsel for the respondents-landlords assures that if the matter is remitted, an opportunity be granted to place on record the valuation report which shall be produced in case by 5th December, 2022. Similarly, the petitioners are at liberty to place on record the valuation report of the suit property so as to find out reasonable amount of compensation by the said date.

6. In the aforesaid background, the order impugned is set aside.

7. The Application vide "Exhibit 8" alongwith written response of the respective parties, be restored on the file of the Appellate Bench. The parties aggrieved, in respect of valuation report of the suit property, the same shall be filed till 5th December, 2022.
8. The Appellate Court shall decide the said Application within a period of six weeks from the filing of the aforesaid valuation report.
9. The petitioners are directed to continue to deposit an amount of Rs.5,000/- per month towards interim compensation in the Appellate Court from the date of decree and shall also continue to deposit the same on each successive month on or before 10th of each English month.
10. The Petition stands allowed in the above terms.
11. Arrears to be cleared within a period of one month from today.

(NITIN W. SAMBRE, J.)