

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

**INTERIM APPLICATION NO. 17780 OF 2022
IN
FIRST APPEAL NO. 1330 OF 2018**

Rekha Vipin Khakhar ... Applicant

IN THE MATTER BETWEEN

Nishant Mitrasen Mahimtura and Anr. ... Appellants

Versus

Rekha Vipin Khakhar and Anr. ... Respondents

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Mr. Satyavan N. Vaishnav a/w Ms. Nupur J. Mukherjee i/b M/s. N. N. Vaishnawa and Co., for the Applicant / original Respondent No.1.

Ms. Bhavika Shinde a/w Mr. Umesh Mankapure, for the Respondent No.2.

Mr. Manoj Badgujar i/b Mr. Akshay Shinde, for the Appellants.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 10th JULY, 2023.

P.C.

Respondent has filed this application on 10th August, 2022.

On the last date i.e. 12th June, 2023 and before that adjournments were sought on behalf of the appellants. On 12th June, 2023 applicant was permitted to withdraw her statement made on 5th December, 2018.

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Rekha Patil

2 Today, learned Counsel for the applicant is pressing prayer clause (b) of the application seeking direction to deposit / pay mesne profit at the rate of Rs.1,12,500/- per month with effect from 11th January, 2006 till date without prejudice to rights of either of the parties.

3 This Court by a detailed order dated 8th December, 2022, after hearing the respective learned Counsel for the parties appointed M/s. Nadkarni and Associates as a Valuer for valuing market rent per square foot which the suit property would fetch from year 2006 till 30th November, 2022.

4 Pursuant to the said order, the Valuer has tendered his report dated 24th January, 2023. As per the said report, market rent in respect of the suit premises known as “Libas Showroom” on the ground floor, 2, Sukh Shanti, Peddar Road, Mumbai would come to the tune of Rs. 4,08,45,951/-. 50% share of the plaintiff would be Rs.2,04,22,975/-. An amount of Rs.15,00,000/- was deducted since it was earlier paid. As such, the amount net payable as per the said report is Rs.1,89,22,975/-.

5 At this stage, learned Counsel Mr. Badgujar holding for Mr. Akshay Shinde seeks indulgence for granting some time to the learned Counsel to address the Court. The request is rejected in view of the past conduct.

6 Application is allowed in terms of prayer clause (b), which reads as under:

“(b) The Appellants be ordered and directed to deposit/ pay mesne profit @ Rs.1,12,500/- per month for the period from 11th January, 2006 till date and continue to deposit/pay to the Applicant without prejudice to rights of both the parties.”

7 The appellant is hereby directed and ordered to deposit the said amount in the Registry of this Court within four weeks.

[PRITHVIRAJ K. CHAVAN, J.]