

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.18059 OF 2022
IN
CIVIL REVISION APPLICATION NO.327 OF 2018

Patricia (Patsy) Philomena Fonseca And Ors ...Applicants

IN THE MATTER OF

Zaraine Rustam Irani And Ors ...Applicants

Versus

Patricia (Patsy) Philomena Fonseca And Ors ...Respondents

Mr.Owen Meneles a/w Mr.Beverly Fernandes i/b Darryl Pereora,
for the Applicants.

Mr.Mandar Limaye i/b Mr.Saurabh Oka, for the Original
Applicant/for the Respondent in IA.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18 APRIL 2023

P.C:-

. The learned counsel for the Applicant submits that the Respondents be directed to deposit compensation as Respondents are using suit premises which is situated at prime place in Bandra admeasuring about 1400 sq.ft. As per the valuation report the rent of suit premises comes to Rs.5 lakhs per month. Since, the year 2006 the Respondents have not deposited rent amount, hence direction be given to the Respondents to pay

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the compensation.

2. The learned counsel for the Applicant relied on *Atmaram properties V/s. Oriental Insurance Co.*¹ and *State of Maharashtra & Anr. vs. M/s. Super Max International Pvt. Ltd. & Ors*².

3. The learned counsel for the Respondents submits that the valuation report submitted by the Applicant's is inflated and is on higher side. The Respondents have also taken out the valuation of the suit premises, as per valuation report of the Respondents. The monthly compensation comes around Rs.54,000/-.

4. The learned counsel further submits that the valuation report submitted by the learned counsel for the Applicant is as per today's market rate, the suit premises is more than 100 years old and has not renovated properly. Considering the condition of the suit premises the monthly compensation of Rs.5 Lakhs is excessive. The Respondents are ready to pay monthly compensation @ Rs.65,000/- per month.

5. The learned counsel for the Applicant submits that if the Respondents are ready to pay Rs.65,000/- per month along

1 2018 (2) SCC 27

2 2009 (9) SCC 172

with arrears of compensation from the year 2006. The Applicants are ready to accept it, without prejudice to the rights of the Applicants and Respondents and keeping all contentions open. The arrears would come around Rs.1,28,05,000/-.

6. The learned counsel for the Respondent further submits that six months time be given to the Respondents to deposit the arrears of compensation.

7. The Petitioner No.2/Respondent No.2 is present in Court.

8. In view of submissions of both learned counsel, I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The Respondents are directed to deposit 50% amount out of Rs.1,28,05,000/- within three months from today and remaining amount after three months.
- (iii) The Respondents shall pay compensation of Rs.65,000/- per month before the 10th day of every month from 10th May 2023.

(SHIVKUMAR DIGE, J.)