IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.21 OF 2021
WITH
INTERIM APPLICATION NO.392 OF 2021

CANARA BANK …APPLICANT
V/s.
TARUNA KISHORE THAKURAL …RESPONDENT

WITH
INTERIM APPLICATION NO.14799 OF 2023

TARUNA KISHORE THAKURAL …APPLICANT
V/s.
CANARA BANK ...RESPONDENT

Mr. G. V. Murti Advocate for the Applicants/Respondents.
Ms. Eventa A. Gonsalves a/w. Mr. Reyden L. Gonsalves & Mr. Trinity Rebello for the Respondent in CRA 21/2021.8i

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CORAM : RAJESH S. PATIL, J.

DATED : 25TH SEPTEMBER, 2023

P.C.:

INTERIM APPLICATION No.14799 OF 2023

1. This Interim Application is filed for withdrawal of 50% share of Applicant, from the amount deposited by the Respondent in the Court of Small Causes at Bombay, pursuant to the order passed by this Court on 25 January, 2021 in CRA/21 of 2021.

2. The Applicant had filed R & R Suit No.89/115 of 2011 in the Court of Small Causes at Bombay (Bandra Branch) seeking an Order and Decree to pay her 50% of her share along with an interest at the rate of 18% per annum, being the mesne profits of suit premises.

3. The R & R Suit No.89/115 of 2011 was decreed by judgment and decree dated 5 April 2018, thereby granting compensation @ Rs.151 per sq.ft. for ground floor premises and Rs.75.50P. for basement, and a further interest @ 14% per annum was granted. An Appeal preferred by the Respondent herein was also dismissed on 5 February, 2020. On the concurrent findings of both the courts below, the Respondent herein preferred Civil Revision Application (for short 'CRA') in this Court. The said CRA is pending for admission.

4. In the meanwhile, the present Interim Application was preferred by the Applicant for withdrawal of the amount deposited by the Respondent on 7 February, 2021 pursuant to the Order passed by this Court on 25 January, 2021.

5. I have heard both the sides and I have considered the submissions made in the Interim Application. The Small Causes Court has granted a mesne profits @ Rs.151 per Sq.ft. for the ground floor premises and Rs.75.50 per Sq.ft. for basement. The Respondent Bank has deposited the mesne profits along with the

interest @ 11 % per annum. The Respondent Bank has challenged the same by way of CRA under Section 115 of the Code of Civil Procedure, 1908 (for short 'CPC'). The Respondent Bank has submitted that the rate for ground floor premises should be Rs.140 per Sq.ft. and Rs.70 per Sq.ft. for basement. The Respondent Bank has also submitted that the interest @ of Rs.14% per annum is on the higher side and the same should be at the most 6% per annum.

6. The Respondent Bank has deposited the amount @ Rs.140 per Sq.ft. for ground floor and Rs.70 per Sq.ft. for the basement along with interest @ 11% per annum as per the directions given in order dated 25 January, 2021.

7. Taking into consideration the fact that the Respondent Bank, who has suffered concurrent decrees, has deposited the undisputed amount of mesne profits in Small Causes Court. According to me, it makes sense in allowing the Applicant to withdraw her share of 50% along with accrued interest.

8. Since the Respondent Bank has deposited Rs.1,66,47,427.10P on 7 February, 2021, the Applicant is allowed to withdraw her 50% share i.e., Rs.83,23,713.55P along with accrued interest thereon from the amount deposited in Small Causes Court in Appeal No.22 of 2019, arising out of R & R Suit No.89/115 of 2011, upon furnishing an undertaking within one week before this Court, to the effect that if she fails in this CRA,

she will return the amount withdrawn with interest, at such rate as may be directed by this Court at the time of disposal of the CRA.

9. The Interim Application No.14799 of 2023, is accordingly disposed of.

10. All the parties to act on an authenticated copy of this order. Issuance of certified copy of this order is expedited.

(RAJESH S. PATIL, J.)