



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

WRIT PETITION NO.10376 OF 2023

Rakesh Ramashankar Singh

...Petitioner

Versus

Tilak Khetshi Shah and Ors.

...Respondents

...

Mr. Jitendra M. Pathade with Advocate Krishna Naik and Priyanka Singh for the Petitioner.

Mr. Shravan M. Vyas for Respondent Nos.1(a) to 1(d).

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th AUGUST, 2023.

P. C. :-

1. The Petitioner has filed the petition under Article 227 of the Constitution being aggrieved by order dated 27/07/2023 whereby the Appellate Bench of the Small Causes Court allowed the application at Exhibit 9 and stayed the execution and implementation of Order dated 30/01/2023 passed by the Executing Court in Obstructionist Notice No.231 of 2018 filed in Execution Application No.259 of 2017, with directions to the Petitioner to deposit an amount of Rs.1,31,500/- per month from the date of Judgment till disposal of the appeal.

2. It is seen that both parties had not filed valuation report.

The Appellate court has determined the compensation only on guess work. In the aforesaid facts and circumstances, both parties agree that the order should be modified by reducing the amount of Rs.1,31,500/- to Rs.30,000/- per month from the date of decree i.e. 30/01/2023 till date of the appeal. The parties also agree that application at Exhibit-9 will be decided de novo within a period of six weeks.

3. Learned counsel for the Petitioner states that arrears from 30/01/2023 till date will be deposited within a period of four weeks and that thereafter the Petitioner shall continue paying the compensation of Rs.30,000/- per month on the 10th day of each month till final disposal of the appeal or the application at Exhibit 9.

4. Both parties are permitted to produce valuation report and or any other documents to determine the compensation. Learned counsel for the Petitioner states that the Petitioner shall have no objection if the valuer appointed by the Respondent inspects the premises after giving four days advance notice.

5. In view of above, the petition stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)