

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 10851 OF 2022

Rukmaya Chandu Poojari

...Petitioner

Vs.

Asit Dhankumar Javeri and Ors.

...Respondents

Ms. Hetal Patel a/w. Mr. Suraj Shetye for Petitioner

Mr. Rohan Savant i/by Mohansingh Ghatge for Respondent

Nos.1 to 7

CORAM : SANDEEP K. SHINDE, J.

THURSDAY 5TH JANUARY, 2023

P.C. :

1. Against the eviction decree drawn in R.A.E. Suit No. 321/515 of 2004, Petitioner preferred appeal before the Appellate Bench, Small Causes Court, Bombay. Pending appeal, vide order dated 8th August, 2022 tenant was directed to pay interim compensation, at the rate of Rs.1,00,000/- p.m. from the date of decree till final disposal of the appeal as condition precedent to stay the operation and execution of decree passed in above suit. Feeling aggrieved by the said order, Petitioner has approached this Court in its supervisory jurisdiction.

2. Learned counsel for the Petitioner invites my attention to a valuation report submitted by the Petitioner-tenant, in terms of which, the reasonable rent suit premises would fetch is Rs.31,250/-. Learned counsel would submit that the interim compensation awarded, was by ignoring the valuation report, and by incorrectly placing reliance on order dated 9th March, 2021 passed in respect of Shop No.10 of which reference is made in paragraph 13 of the impugned order. Learned counsel would, submit even otherwise having regard to kind of premises, its' location and area, the interim compensation granted by the Appellate Court was excessive. Counsel would submit, reasonable amount of monthly compensation cannot exceed Rs.50,000/-.

3. Mr. Sawant, learned counsel for the Respondents - landlords, would justify the order and invited my attention to leave and licence agreement, at page 193 and the order dated 9th March, 2021 passed in respect of Shop No. 10A a premises in the building, where suit premises is situated. Mr. Sawant, would submit, the appellate Court has justly relied on order dated 9th March, 2021 and therefore impugned order, being founded on evidence, it calls for no interference in supervisory jurisdiction.

4. It could be seen that the suit premises are used for commercial purposes. It admeasures about 378 sq.ft; situated in core market area. The comparable instance i.e. order dated 9th March, 2021 in respect of Shop No. 10A admeasuring 250 sq.ft. situated in the same building, co-ordinate bench has awarded interim monthly compensation @ Rs.1,75,000/- p.m. for lesser area. In that view of the matter, it cannot be said that, the interim compensation directed to be paid, was 'unjust' as contented by the Petitioner. Thus having regard circumstances of the case, I deem it appropriate to quantify the amount of monthly interim compensation @ Rs.80,000/- p.m.

5. Thus for the reasons stated above, impugned order stands modified to the extend as ordered hereinabove.

6. Learned counsel, on instructions from the Petitioner who is present in the Court, submits that the arrears of rent would be deposited within four months either in equal installments or otherwise i.e. on or before 5th May, 2023 and Petitioner shall deposit Rs.80,000/- p.m. regularly, until it is modified.

7. Let the amount of arrears be invested in fixed deposit in Nationalized Bank, including the monthly compensation, regularly.

8. Writ Petition is partly allowed and disposed of.

(SANDEEP K. SHINDE, J.)