

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

WRIT PETITION NO.11601 OF 2023

Maharashtra Barrel Drum Co. ...Petitioner
Versus
Tilak Khetshi Shah deceased through
Legal Heirs ...Respondents

Mr. Vaibhav Sugdare, i/b. S. P. Chavan, for the Petitioner.
Mr. Shravan Vyas, for the Respondents.

CORAM : RAJESH S. PATIL, J.

DATED : 13th SEPTEMBER, 2023

P.C.:

1. This Writ Petition is filed challenging the order dated 27 July 2023 passed by the Division Bench of the Small Causes Court, Mumbai. On order below Exhibit 9 in Execution Appeal No.54 of 2023 in Obstructionist Notice No.235 of 2018 in Execution Application No.259 of 2017.

2. By the impugned judgment and order, a Division Bench of the Small Causes Court allowed Exhibit 9 filed by the Respondents herein on the basis that the parties have not filed any report of valuer or even a copy of ready reckoner was not produced on record, and only on the basis of base work a sum of Rs.4,00,000 per month was fixed as compensation to be paid per month by the Petitioner herein.

3. After the matter was argued for some time, the parties agreed by consent that the impugned judgment and order dated 27 July 2023 passed by the Division Bench of the Small Causes Court is quashed and set aside. Exhibit 9 is taken back to the file of the Court of the Division Bench of the Small Causes.

4. The parties are directed to approach a Division Bench of Small Causes Court. The parties to appear before the Division Bench of Small Causes Court on 15 September, 2023. The parties may produce, if they wish, a copy of valuers report or any other document which according to them will be necessary for deciding application Exhibit 9.

4. It is also further directed the Petitioner herein to produce his income source by way of income tax returns if at all he is filing the same or any other document to prove him source of income. The Small Causes Court directed to consider the same documents if produced while deciding a quantum of compensation to be paid by the Petitioner per month.

5. The Division Bench of the Small Causes Court to make an endeavour that this Application Exhibit 9 is heard and disposed of within a period of six weeks.

6. It is needless to mention here all contentions are kept open since this Petition is not disposed on merit.

7. The Writ Petition No. 11601 of 2023 is accordingly disposed of.

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

(RAJESH S. PATIL, J.)