

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.9927 OF 2022
IN
CIVIL REVISION APPLICATION NO.329 OF 2011

Smt. Lata Shantaram Newaskar
(since deceased and hence deleted)
Vaishali Gajanand Baraskar & Ors.
(Now Hemangi Gajanan Baraskar) ...Applicants
In the matter between
Dwarkadas Jethalal & Anr. ...Applicants

Versus

Smt. Lata Shantaram Newaskar
(since deceased and hence deleted)
Vaishali Gajanand Baraskar & Ors.
(Now Hemangi Gajanan Baraskar) ...Respondents

Mr. Pankti Desai i/b M/s M. P. Vashi & Associates, for the
Applicants in CRA & IA/399/2023, 17036/2022.

Mr. Chandrakant N. Chavan, for the Applicants in
IA/9927/2022 & for the Respondents in CRA.

CORAM : MADHAV J. JAMDAR, J.

DATE : 2nd MARCH, 2023

P.C.:

1. Heard, learned counsel appearing for the Applicants in Interim Application No. 9927 of 2022 i.e. Original Respondent in Civil Revision Application No. 329 of 2011.
2. In the Interim Application, prayer is sought to withdraw an amount of Rs. 7, 27, 120/- from the amount which has been deposited by the Original Applicants.
3. A learned Single Judge by order dated 3rd April 2012 directed the Original Applicants to pay a sum of Rs. 4,500/- per

month in addition to the amount of rent towards compensation from 29th June, 2005 till 28th February, 2011 and further Rs. 7,300/- per month from 1st March, 2011 onwards.

4. It is admitted position that pursuant to said order, the Original Applicants have deposited in the Small Cause Court at Mumbai, the said amount including an amount of Rs. 7,300/- per month with effect from 1st March, 2011. By said order dated 3rd April 2012 of the learned Single Judge, Applicant in Interim Application No. 9927 of 2022 i.e. Respondents in Civil Revision Application No. 329 of 2011 was allowed to withdraw an amount of Rs. 1,407/- per month. The said amount is permitted to be withdrawn as at that time it was represented that the said amount is the rent amount.

5. Mr. Chavan, however states that, the rent amount is wrongly mentioned by the Respondents when said order dated 3rd April, 2012 was passed. He has submitted detailed chart on page 24 to 25 about the actual rent plus permitted increases. He has also relied on letter of the Original landlord addressed to the Respondents which is on page 26 of this Interim Application. He has also annexed the relevant rent receipts. The Original Applicants have filed affidavit in reply to this Interim Application. However, the only contention raised is that, after about 10 years the modification is sought and therefore, the application be

dismissed.

6. The documents on record annexed from page Nos. 24 to 36 show that, the Respondents are paying rent at higher rate than Rs. 1,407/- per month. Therefore, the Interim Application is allowed in terms of prayer clause (a).

7. The Respondents are permitted to withdraw the rent from November, 2021 at the rate of Rs. 4, 820/- per month till the disposal of the Civil Revision Application.

8. Mr. Chavan, learned counsel appearing for the Respondents states that, at this stage he is not pressing prayer clause (b) and seeks liberty to file appropriate Application, if required, if Civil Revision Application is not finally heard early.

9. Liberty as sought is granted.

10. The Interim Application is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)