

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

WRIT PETITION NO.1024 OF 2020

1. M/s.Apsara Bakers }
Registered Partnership having Office at }
207, Ganj Peth, Pune-411 042. }

2. Mr.Mohammad Siddique Abdul }
Salam }
R/at 207, Ganj Peth, Pune-411 042 }

...Petitioners

Versus

1. Anwar Khan Ahmedkhan }
(Since Deceased Thr. His Lr's) }

1A. Badrunnisa Anawar Khan }
1B. Laikunnisa Israr Khan }
1C. Jahangir Anwar Khan }
1D. Mubarak Anwar Khan }

All R/at 207, Ganj Peth, Pune-411042 }

1E. Sanakausar Mujaffar Bijliwale }
R/at 365, Ganj Peth, Pune-411 042 }

2. Maniruddin Ansar }
(Since Deceased Thr. His Lrs.) }

2A. Akram Maniruddin Ansari }
2B. Makaram Maniruddin Ansari }

Both R/at 290, A.I. Bakery, Kothrud, }
Pune }

...Respondents

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Mr.Abhaykumar Apte, for the Petitioners.
Mr.Adbul R. Shaikh, for Respondent Nos.1 A to 1 E.

CORAM : SHIVKUMAR DIGE, J.

DATE : 23 MARCH 2023

JUDGMENT :

. Rule. Rule made returnable forthwith. Heard finally by consent of parties, at the admission stage.

2. It is contention of the learned counsel for the Petitioner that the Petitioner has challenged the judgment, decree and order dated 19 June 2019 passed in Small Cause Suit No.76 of 2010 before the Appellate Bench, Small Causes at Pune. While staying the said order the Appellate Bench has directed the Petitioner to deposit rent of Rs.15,000/- per month which is improper.

3. The learned counsel for the Petitioner further submits that the suit premises is in dilapidated condition and without appointing Valuer the rent was fixed by the Appellate Bench, which is improper. Hence, requested to allow the Petition.

4. It is contention of the learned counsel for the Respondent No.1 that the suit premises is around 1000 sq.ft. RCC Structure Shop. It is in good condition. It is located in Commercial market area of Ganj Peth, Pune. The rent of the suit premises is around more than Rs.25,000/- per month. The Compensation of the said suit premises is more than Rs.15,000/- per month and the order passed by the Appellate Bench is proper.

5. I have heard both learned counsel. Perused impugned order passed by the Appellate Bench, below Exhibit-8.

6. While passing the impugned order District Judge, Pune has observed that the suit premises is Commercial one and further seems that suit premises is in market place. The Appellants are using the suit premises for Bekari purpose, means they are using suit premises for Commercial purpose. Considering the purpose for which it is used the learned District Judge has directed to pay monthly compensation of Rs.15,000/- to the Respondent before 10th day of every month, till disposal of the Appeal. I do not find any infirmity in the order, as admittedly, the suit premises is Commercial premises, it is located in market place. But considering the fact that Appeal is pending, hence, till decision of Appeal Rs.12,000/- would be proper compensation. It would meets the ends of the justice, if District Judge is

requested to dispose of the Appeal as early as possible will suffice the purpose and I pass following order.

ORDER

- (i) Writ Petition is partly allowed.
- (ii) The order passed by the District Judge, Pune below Exhibit-8 is modified as under:-

“The Appellants are directed to pay Rs.12,000/- per month from November 2019 till date within six months”.
- (iii) Arrears of compensation shall be given within six months from today and from this month pay compensation regularly before 10th day of every month.
- (iv) All contentions of parties are kept open.
- (v) All pending Civil Applications, if any, are disposed of.

(SHIVKUMAR DIGE, J.)