

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

WRIT PETITION NO.13950 OF 2023

Vipul Dhansukhlal Sanghavi & Ors.

..Petitioners

Versus

Tilak Khetshi Shah

Since deceased through his legal heirs

Smt. Sobhana Tilak Shah & Ors.

..Respondents

Mr. Vishal Kanade a/w Janhavee Joshi, Rakesh Pathak & Vipul Sanghavi, for the Petitioners.

Mr. Shravan M. Vyas, for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 22nd DECEMBER, 2023

PC.

1. By this Petition filed under Article 227 of the Constitution of India, the challenge is to the order dated 10th October, 2023 passed in Revision Application No.321 of 2019 dismissing the Revision Application.

2. It is not necessary for this Court to go into the merits of the matter as both the parties have submitted that they will pay the amount which will be fixed by this Court as reasonable compensation. The order of the Revisional Court suffers from an apparent error inasmuch as it notes that the interim mesne profits are being claimed for area 489 sq.mtrs of commercial area, whereas the factual position is that the area is of 489 sq.ft.. In the Mesne

BGP

SACHIN
RAMCHANDRA
PATIL

Digitally signed
by SACHIN
RAMCHANDRA
PATIL
Date:
2023.12.23
13:37:33 +0530

1 of 2

Profits Application, the Trial Court had ordered the defendants to pay mesne profits at the rate of Rs.4890/- from the 1st November, 2003 till handing over possession. Keeping the said amount as a benchmark, in my opinion, a reasonable compensation can be fixed at the rate of Rs.15,000/- per month to be paid from 16th January, 2019. The arrears of the interim compensation to be cleared within a period of eight weeks from the date of uploading of this order. The monthly compensation to be paid before the 10th day of each succeeding month. Amount to be deposited in the Small Causes Court.

3. The hearing of the Obstructionist Notice No.232 of 2018 is expedited. The Executing Court is requested to decide the Obstructionist Notice within a period of six months from today.

4. The Petition as such stands disposed of.

5. All rights and contentions of both the parties are expressly kept open including the contention of the learned counsel for the Petitioners that they are not liable to pay any amount towards mesne profits.

[SHARMILA U. DESHMUKH, J.]