

SA Pathan

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

APPEAL FROM ORDER NO.641 OF 2019

**WITH
CIVIL APPLICATION NO.729 OF 2019**

**IN
APPEAL FROM ORDER NO.641 OF 2019**

Tridhaatu Suraj Villa Developers LLP ... Appellant
V/s.
Deepak Shamsundar Gavaskar & Ors ... Respondents

Mr. Shrey Shah i/by Vidhi Partners, for
Appellant/Applicant.

Mr. Drupad S. Patil, for Respondent No.1.

Mr. Sulgana Mohanty h/f Mr. T. D. Deshmukh a/w Mr.
H. D. Chavan, for Respondent No.2 (MHADA).

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 6, 2023

P.C.:

1. The Trial Court by the impugned order directed the appellant to pay Rs.39,500/- from the date of vacating the suit premises till handing over possession of permanent alternate accommodation to the plaintiff in lieu of suit premises.

2. The respondent thereafter filed an application below Exhibit 6 for increase of rental compensation by 10%.

3. The Trial Court recorded in paragraphs 9 and 10 as under:

“9. On 19.11.2016 advocate Salome W. Rasario i/b M/s. Legal Catalyst for the defendant no.1 appeared before this Court. She submitted that she has no objection if application Ex.6 is allowed. Ld. Counsel Mrs. Prabhu for the defendant no.2 and Ld. Counsel Mr. Dhumale for the defendants no.3 and 4 also submitted before this Court that they have no objection to allow the application Ex.6.

10. Today advocate Salome W. Rasario i/b M/s. Legal Catalyst for the defendant no.1 appeared before this Court and submitted her written submission at the foot of application Ex.6 that to allow the application Ex.6 of the plaintiff.”

4. On perusal of paragraphs 9 and 10 of the order dated 22 November 2016, it appears that the appellant consented for grant of 10% increase in the rental compensation of Rs.39,500/- with the result, the order of granting transit compensation of Rs.39,500/- merges with the order dated 26 November 2016. Since, the order dated 26 November 2016 is passed by consent of the parties, appeal against such order is not maintainable. If, the appellant intended to dispute such concession, only remedy available with the appellant, was to approach before the same Judge immediately after passing of the order disputing recording of such consent terms. the position is no longer *res integra*, in view of judgment in the case of **State of Maharashtra Vs Ramdas**

Shrinivas Nayak & Anr, reported in 1982 (2) SCC 463. Hence, the appeal against such consent order cannot be entertained.

5. The appeal from order is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)