

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17867 OF 2023

IN

INTERIM APPLICATION NO. 16382 OF 2023

IN

INTERIM APPLICATION NO. 4033 OF 2023

IN

WRIT PETITION NO. 7126 OF 2021

Dhaniram Mangaliprasad Verma

(deleted since deceased)

Virbharat Dhaniram Verma

(deleted since deceased)

Smt.Prabha Bharat Verma & Ors.

..... Applicants

IN THE MATTER BETWEEN

Dhaniram Mangaliprasad Verma

(deleted since deceased)

Virbharat Dhaniram Verma

(deleted since deceased)

Smt.Prabha Bharat Verma & Ors.

..... Petitioners

VERSUS

Mathuradas Morarji & Ors.

..... Respondents

Mr.Samir A. Vaidya for the Applicants.

Mr.Shravan M. Vyas for the Respondent Nos. 2 and 3.

Mr.Yogesh K.Kapadia – Respondent No.2 present.

CORAM: RAJESH S. PATIL, J.

DATE : 22nd DECEMBER, 2023

P.C. :-

This interim application is filed seeking an extension of time to deposit the compensation as directed in terms of the

order dated 29 September, 2023.

2. The order dated 29 September, 2023 reads as under :-

1. After the matter was argued for some time, the parties by consent agreed to quash and set aside the order dated 1st February 2020 passed on Exhibit-1 in Appeal No.64 of 2013, by the Appellate Bench of the Court of Small Causes, Mumbai, on the conditions that :- (i) The Petitioners, who are legal heirs of the original tenant will deposit the market rent of the premises, which is 400 sq.ft. on the ground floor in the building Great Western Building situated at Fort, Mumbai, at the rate of Rs.20,000/- per month from the date of the decree i.e. 3 April 2013 till September 2023. The said amount is to be deposited in the Execution Application filed before the Trial Court, within four weeks from today. In case this amount is not deposited within four weeks from today, the Respondents are permitted to execute the decree passed by the Trial court, without further reference to the Court. In such a situation, the concerned Police Station will assist the Respondents in executing the decree.

(ii) The Petitioners will also henceforth deposit the compensation at the rate of Rs.20,000/- per month from October 2023 onwards till the hearing and final disposal of Appeal No.64 of 2023. In case there are two consecutive defaults in the payment of compensation, the concession granted by this Court on reduction of monthly compensation from Rs.30,000/- per month to

Rs.20,000/- per month will also be set aside and the Respondents / Landlords can execute the decree of the Trial Court. In such a situation, the concerned Police Station will assist the Respondents in executing the decree.

2. The order dated 31 October 2018 passed on Exhibit -6 of 2013 in Appeal No.64 of 2013 is modified to the extent of reduction of monthly compensation of Rs.20,000/- per month from Rs.30,000/- per month.

3. On depositing the entire outstanding amount of monthly compensation, the Appellate Court should take up Appeal No.64 of 2013 for hearing and final disposal. Hearing of the said Appeal is expedited.

4. The Appellate Court should make an endeavour that after deposit of the outstanding amount, the Appeal be heard and disposed of within a period of three months thereafter.

5. The Petitioners are hereby specifically directed not to create any third party right, title and interest in the suit premises. An undertaking to that effect be filed before this Court within a period of two weeks from today. Undertaking should also state that apart from Petitioners, no one else is in possession of suit premises. If undertaking is not filed within two weeks, the concession given to the Petitioners will stand withdrawn and the Respondents can immediately execute the decree. The concerned Police will assist the Respondents in executing the decree.

6. The Writ Petition is accordingly disposed of as

partly allowed.

7. Parties to act on the authenticated copy of this order.

8. Issuance of certified copy of this order is expedited.

3. Mr.Shravan Vyas, learned counsel appearing for the respondent landlord submits that his client has specifically given them instructions to oppose this interim application as the earlier order which was passed by this Court on 29 September, 2023, after much deliberations his client agreed to reduce the amount of compensation payable, from Rs.30,000/- per month, to Rs.20,000/- per month, for a premises situated in a prime locality in the City of Mumbai which is around 100 sq.mtrs. away from the High Court Building. Mr.Vyas further submits that it is a building wherein many lawyers have offices and the suit premises is around 400 sq.ft. Mr.Vyas submits that the rent approximately would be around Rs.1,30,000/- per month.

4. Mr.Vaidya, learned counsel appearing for the applicant

submits that due to financial constrain, the applicant was not able to deposit the money as per the directions given by this Court in its order dated 29 September, 2023.

5. However, after going through the interim application, no such grounds have been taken up in the interim application.

6. I am not satisfied with the grounds taken up by the applicant to extend the time to deposit the amount and in view of the fact that the respondents have opposed this application and in view of the fact that the order was passed on 29 September, 2023 granting a period of four weeks to deposit, which ended on 27 October, 2023. No case is made out in the interim application.

7. Interim application is dismissed. No cost.

[RAJESH S. PATIL, J.]