

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1919/2022

Natwarlal Shamaldas And Company Vs Viral S/o Harshad Katkoriya

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.D. Hajare, advocate for the petitioner.

Shri H.N. Kataria, advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 01/02/2023

1. Heard.

2. In this writ petition, the order below Exhibit 5 dated 09/03/2022, passed by the Special Judge, Special Court for Differently Abled Persons, Senior Citizens and Marginalized Section of Society, Nagpur, allowing the application Exhibit 5, and thereby staying the execution of the judgment and decree dated 16/01/2020, passed by the Additional Judge, Small Causes Court, Nagpur in Regular Civil Suit No.388/2014, directing the petitioner to pay Rs. 15,000/- per month towards occupational charges of the suit premises from the date of the judgment and decree passed by the learned Trial Court, is under challenge.

3. In this case, there is no dispute that the suit property is a residential flat. Though there is a dispute about the purpose for which the suit flat is being used i.e. for commercial or residential purpose. However, the fact

remains that the flat is situated in a posh locality of Nagpur City. There is no dispute that the flat is admeasuring 550 Sq.ft.

4. Thus, considering the occupational charges determined by the learned Lower Appellate Court, I am not convinced with the submission of the learned advocate for the petitioner that the occupational charges are exorbitant. The only challenge involved in the present writ petition is the quantum of occupational charges, and as already observed that considering the locality and the area of the flat, prima-facie the occupational charges are fair.

5. However, I am of the opinion that, the purpose would be served, if the petitioner is directed to deposit Rs. 15,000/- per month, as directed by the learned Lower Appellate Court as occupational charges in the Court, and the same shall be made subject to the result of the appeal. The learned advocate for the respondent is agreeable for this arrangement. Accordingly, I pass the following order:

- a) The writ petition is **allowed** with direction to deposit Rs. 15,000/- per month on or before 10th of each month as occupational charges in the Court regularly, as directed by the learned Lower Appellate Court, which shall be subject to the final result of the appeal.

- b) The learned Lower Appellate Court is directed to expedite the appeal and decide the same at the earliest.
- c) The arrears shall be deposited within one month from today.

JUDGE