

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

Writ Petition No. 8453/2022

HIMMAT KESHAORAO BHAISE AND ORS. ...VS... SACHIN KISANLALJI LOHIYA

WITH

Writ Petition No. 8471/2022

SACHIN S/O KISANLALJI LOHIYA ...VS ... HIMMAT S/O KESHAORAO BHAISE AND ORS.

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

Court's or Judge's Order

Writ Petition No. 8453/2022

Mr. V.A. Kothale, Advocate for the petitioners

Mr. R.M. Pande, Advocate for the respondent

Writ Petition No. 8471/2022

Mr. R.M. Pande, Advocate for the petitioner

Mr. V.A. Kothale, Advocate for the respondents

CORAM : A. S. KILOR, J.

DATED : 24/04/2023

Civil Application No. 691/2023 in WP No. 8453/2022

1. This an application for bringing legal heirs of the petitioner on record.
2. For the reasons stated in the application, the application is allowed.
3. Necessary amendment be carried out forthwith.

Civil Application No. 954/2023 in WP No. 8471/2022

1. This an application for bringing legal heirs of the respondent on record.
2. Mr. Kothale, learned Counsel waives service of

notice for the proposed legal heirs.

3. For the reasons stated in the application, the application is allowed.

4. Necessary amendment be carried out forthwith.

Writ Petition Nos. 8453/2022 and 8471/2022

1. This Court on 03.01.2023, in Writ Petition No. 8453/2023, by recording reasons issued *ad interim* direction to deposit an amount of Rs.5000/- per month in this Court till further order. The said amount was towards mesne profit. Whereas by impugned order the petitioner was directed to pay Rs.10000/- per month towards mesne profit. The said order was modified by *interim* order and it was directed to the petitioner to deposit Rs.5000/- per month.

2. Admittedly, appeal is pending and in this Court both tenant and landlord have approached challenging the impugned order which is an *interim* order passed below Exh. 5 on 19.10.2022.

3. The landlord has approached this Court by filing Writ Petition No. 8471/2022 for enhancement of monthly amount of mesne profit. Considering the *interim* order passed by this Court on 03.01.2023, I am of the opinion that the purpose would be served if the directions are issued to the learned Appellate Court to decide the appeal expeditiously. Accordingly, I pass the following order:

- (a) The writ petitions are disposed of.
- (b) District Judge 4 and Additional Sessions Judge, Amravati is directed to decide Regular Civil Appeal No. 147/2022 expeditiously and in any case, within a period of six months from today.
- (c) Needless to mention that till the disposal of the appeal, *interim* order passed by this Court in Writ Petition No. 8453/2023 on 03.01.2023 directing the petitioner to deposit Rs.5000/- per month shall continue with modification that the said amount shall be deposited in the Appellant Court.
- (d) Further, needless to mention that the failure to deposit mesne profit for two consecutive months, the interim order passed by this Court, in Writ Petition No. 8453/2023, dated 03.01.2023 shall stand automatically vacated.
- (e) The petitioner in Writ Petition No. 8471/2022 and the respondent in Writ Petition No. 8453/2022 is permitted to withdraw the amount deposit by the tenant/petitioner in Writ Petition No. 8453/2022 in this Court.

JUDGE

SANDIP
MAHADEV
GATE

Personal Assistant to the
Hon'ble Judge
Digitally signed by
SANDIP MAHADEV
GATE
Date: 2023.04.25
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