

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

CIVIL REVISION APPLICATION NO.782 OF 2023

Canara Bank

... Applicant

V/s.

Kalpana Amit Doshi and Ors.

... Respondents

Mr. Rajkumar Shukla a/w Charles D'souza, Saraswati Rajpurohit and Shailja Shukla, Advocate for the Applicant.

Mr. Vishal Kanade, i/by Adv. Darshanchandra B. Zaweri, Advocate for the Respondent.

Mr. Sanjiv Bipin Barot Respondent No.2. personally present.

CORAM : RAJESH S. PATIL, J.

DATED : 28 MARCH 2024

P.C.:

1. This Civil Revision Application is filed by original defendant in a *mesne profit* application. The respondents herein are the landlords who had filed an eviction suit under Section 41 of The Presidency Small Cause Courts Act, 1882 against the applicant / bank. An eviction decree was passed against the applicant / bank on 2 May 2011. An appeal filed against the eviction decree was also dismissed on 1 October 2012 during the pendency of the Appeal the suit premises were vacated on 30 April 2012.

2. Thereafter, the *mesne profit* application was decided by an Order dated 14 June 2017. The said order passed by the Trial Court in a *mesne profit* application was carried in appeal by the

bank so also an appeal was filed by the original landlord against the order passed by the Trial Court in the *mesne profit* application. The said appeals were decided by the Appellate Court, and by its order dated 24 October 2019 the Appellate Court upheld the order passed by the Trial Court. Against the concurrent findings recorded by the Trial Court and the Appellate Bench, in the *mesne profit* application, the applicant / bank has filed the present Civil Revision Application, under Section 115 of Civil procedure Code.

3. After the matter was argued for sometime the counsel for both the sides on instructions of their respective client, who are present in this Court have agreed to dispose of the Civil Revision Application on certain directions.

4. The Civil Revision Application is disposed of by following directions:

5. The impugned order dated 24 October 2019, passed by the Appellate Bench of the Court of Small Causes in Miscellaneous Appeal No.92 of 2018 and Miscellaneous Appeal No.115 of 2017 is hereby modified as follows.

6. The amount would be payable at the rate of Rs.112/- per sq.ft, for the suit premises which is admeasuring 2,842 sq. fit, for the period from 19 April 2009 to 30 April 2012, along with interest calculated @ 9% per annum.

7. Both parties have jointly submitted a chart of calculation sheet. For ease of reference, a copy of calculation sheet is scanned and reproduced hereinbelow :

Sharda
66-8

Civil Revision Application No. 782 of 2023

Sr. No. 902

SR NO 3

RSK AND 117 PPT

COMPUTATION OF INTEREST ON ARREARS OF MESNE PROFIT INCLUDING GST (FROM 18TH APRIL 2009 TO APRIL 2012 WITH INTEREST UPTO 2ND FEB 2024)						
MONTH & YEAR	MESNE PROFIT (Rs.)	SEC. ON A/E (Rs.)	DIFFERENCE (Rs.)	DELAY PERIOD (months)	INT. RATE (%)	INTEREST (Rs.)
2009						
APRIL	127322.00	27167.44	100154.56	177.00	9%	154000.78
MAY	118304.00	67918.60	50385.40	178.00	9%	130540.18
JUNE	118304.00	67918.60	50385.40	175.00	9%	128762.79
JULY	118304.00	67918.60	50385.40	176.00	9%	128864.40
AUGUST	118304.00	67918.60	50385.40	172.00	9%	125506.53
SEPTEMBER	118304.00	67918.60	50385.40	172.00	9%	124126.82
OCTOBER	118304.00	67918.60	50385.40	171.00	9%	121250.72
NOVEMBER	118304.00	67918.60	50385.40	170.00	9%	11972.84
DECEMBER	118304.00	67918.60	50385.40	169.00	9%	117494.95
	1073754.00	510836.24	562917.76			
2010						
JANUARY	118304.00	67918.60	50385.40	168.00	9%	115617.06
FEBRUARY	118304.00	67918.60	50385.40	167.00	9%	113739.17
MARCH	118304.00	67918.60	50385.40	166.00	9%	111861.28
APRIL	118304.00	67918.60	50385.40	165.00	9%	109983.39
MAY	118304.00	67918.60	50385.40	164.00	9%	108105.49
JUNE	118304.00	67918.60	50385.40	163.00	9%	106227.60
JULY	118304.00	67918.60	50385.40	162.00	9%	104349.71
AUGUST	118304.00	67918.60	50385.40	161.00	9%	102471.82
SEPTEMBER	118304.00	67918.60	50385.40	160.00	9%	100593.93
OCTOBER	118304.00	67918.60	50385.40	159.00	9%	98716.04
NOVEMBER	118304.00	67918.60	50385.40	158.00	9%	96838.15
DECEMBER	118304.00	67918.60	50385.40	157.00	9%	94960.26
	1019548.00	815023.20	204526.80			
2011						
JANUARY	118304.00	67918.60	50385.40	156.00	9%	93082.37
FEBRUARY	118304.00	67918.60	50385.40	155.00	9%	91204.48
MARCH	118304.00	67918.60	50385.40	154.00	9%	89326.59
APRIL	118304.00	67918.60	50385.40	153.00	9%	87448.70
MAY	118304.00	67918.60	50385.40	152.00	9%	85570.81
JUNE	118304.00	67918.60	50385.40	151.00	9%	83692.92
JULY	118304.00	67918.60	50385.40	150.00	9%	81815.03
AUGUST	118304.00	67918.60	50385.40	149.00	9%	79937.14
SEPTEMBER	118304.00	67918.60	50385.40	148.00	9%	78059.25
OCTOBER	118304.00	67918.60	50385.40	147.00	9%	76181.36
NOVEMBER	118304.00	67918.60	50385.40	146.00	9%	74303.47
DECEMBER	118304.00	67918.60	50385.40	145.00	9%	72425.57
	1019548.00	815023.20	204526.80			
2012						
JANUARY	118304.00	67918.60	50385.40	144.00	9%	70547.68
FEBRUARY	118304.00	67918.60	50385.40	143.00	9%	68669.79
MARCH	118304.00	67918.60	50385.40	142.00	9%	66791.90
APRIL	127322.00	27167.44	100154.56	141.00	9%	64914.01
TOTAL			901384.43			10863983.24

MESNE PROFIT
INTEREST

5015874.40
10863983.24

TOTAL
GST @18 %
TOTAL

19866657.64
3576004.37
23442662.01

Sharda
Adv. for Respondents
28/3/2024

Adv. for Applicant
28/03/2024

8. Since it is submitted that the applicant / bank has already deposited a sum of Rs.3,67,96,396.54/- before the registry of Small Causes Court, at Bandra, Mumbai. The amount of Rs.2,34,42,892.01/- is allowed to be withdrawn by the 4 respondents and the balance amount a sum of Rs.1,33,53,504.53/- is allowed to be withdrawn by the applicant / bank.
9. All parties to act on an authenticated copy of this order.

(RAJESH S. PATIL, J.)