

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4264 OF 2024

Vasantraj Jugraj Ranawat & Ors. Petitioners

VERSUS

Nirmala Nagji Savla Respondent

Mr.Monil Punjabi a/w. Mr.Haresh Lulia for the Petitioners.

Mr.Anil D'souza for the Respondent.

CORAM: RAJESH S. PATIL, J.

DATE : 22 MARCH, 2024

P.C. :-

This writ petition is filed by the original defendant against whom an eviction decree was passed by the Trial Court under the Rent Act. The petitioners/original defendants filed an appeal before the Small Causes Court, Appellate Bench at Bandra, Mumbai. After filing the appeal, an application Ex.6 was preferred by the petitioners seeking a stay to the execution of the Trial Court's order. By the impugned order, the Appellate Court stayed the execution of the Trial Court decree subject to certain

conditions. The Appellate Court directed the original defendant to deposit the interim compensation at the rate of Rs.50,000/- per month from the date of the judgment and decree of the Trial Court, till the disposal of the appeal.

2. It is the case of the petitioners that the quantum of Rs.50,000/- payable per month is at the higher side, since according to him, the premises is only 280 sq.ft. He submits that while arriving at a figure of Rs.50,000/- per month, the Appellate Court has not considered any documents on record and there is no reasoning how the Court has arrived at the figure of Rs.50,000/- per month.

3. Mr.D'souza, learned counsel appearing for the respondent/original landlord admits that after going through the impugned order passed by the Appellate Court, it appears that there is no specific reason given in the order as to how the figure of Rs.50,000/- per month is fixed as interim compensation.

4. By consent of the parties, following order is passed :-

(i) The impugned order dated 13 February, 2024 is quashed and set aside.

(ii) The Appellate Court of the Court of Small Causes is directed to re-hear the parties on the issue of quantum to be fixed as interim compensation from the date of the Trial Court's judgment and decree till the disposal of the appeal.

(iii) The said exercise to be done by the Appellate Bench expeditiously and after allowing the parties to bring on record any documents including the ready reckoner in order to arrive at a figure to be fixed as interim compensation.

(iv) In the meanwhile, as interim arrangement, the original defendant is directed to deposit compensation at the rate of Rs.25,000/- per month to be deposited

on the 10th day of each month. As regards the arrears from the date of the judgment and decree dated 18 July, 2023, the same amount can be deposited within a period of six weeks from today without prejudice to the rights and contentions of both the parties.

5. Writ petition is disposed of accordingly.

[RAJESH S. PATIL, J.]