

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

WRIT PETITION NO.4816 OF 2023

Hindustan Organic Chemicals Limited	...Petitioner
Vs	
Mohit Suresh Harchandrai And Ors	... Respondents

Adv. Rugved More a/w. Adv. Yash Ahuja and Adv. Amitabh Sharma
for the Petitioner.

Adv. Ranjana Parikh for the Respondents.

CORAM : RAJESH S. PATIL, J.

DATED : 6 MARCH 2024

P.C.:

1. The suit premises in the present proceedings is commercial premises admeasuring 7825 sq. ft. in Harchandrai House, sitate at 81/81A, Maharashi Karve Road(formerly known as Queen's Road", Marine Lines, Mumbai-400 020.

2. This Writ Petition filed under Article 227 of the Constitution of India challenging the impugned order dated 4 March 2023 passed in Exhibit 9 in Appeal No.306 of 2002, by the Appellate Bench of the Court of Small Causes. The Respondent had filed a T.E. & R Suit before the Court of Small Causes against the Petitioner. The said suit was decreed and the Respondents were permitted to file an application for mesne profit. The Petitioner thereafter on 23 April 2014 vacated and handed over the suit premises to the Respondent.

3. The Application of the Respondents for mesne profit

thereafter heard and decided on merits. By an order dated 2 May 2022 the Trial Court passed an order thereby directing the Petitioner to pay the mesne profit at the rate of Rs.138 sq. ft. p.m. for the period from the 1 June 2000 to 31 December 2006, and Rs.274 per sq.ft. p.m. for the same period with 9% interest per annum till the date of realisation

4. Being aggrieved the Petitioner filed an Appeal before the Appellate Bench of the Court of Small Causes. The Appellate Bench of the Court of Small Causes thereafter heard the parties at Exhibit-9, and directed the Petitioner to deposit an amount of Rs.18,43,78,137.99.

5. The present Writ Petition challenges the impugned judgment passed by the Appellate Bench on 4 March 2023.

6. Ms. Parekh, learned counsel appearing for the respondent submits that as per the Trial Court decree the amount payable as of now would be approximately Rs.60,00,00,000/- (Rupees Sixty Crores only). Ms. Parekh submitted that except deposited of Rs. 2,50,00,000/- the petitioner has not deposited any amount. Ms. Parekh submits that since the appeal is pending before the Appellate Bench of Court of Small Causes, and this paying money decree the petitioner (appellant) should deposit the entire decretal amount, i.e., approximately of Rs.60,00,00,000/-. However, Ms. Parekh submitted that the petitioner is not making any efforts even to deposit the said a sum of Rs.18,43,78,137.99 which was directed by Appellate Court to deposit. She submits that the petitioner is in fact now in contempt since they have not

deposited the amount, which was less than 1/3 of the decretal amount as directed by the Division Bench of the Court of Small Causes.

7. Ms. Parekh submitted that even today the petitioner is ready to deposit the decretal amount appeal can be made time bound and can be disposed at the earliest.

8. Mr. More, learned counsel appearing for the petitioner submits that the petitioner has deposited a sum of Rs.2,50,00,000/- with Small Causes Court and in order to show their bona fide they are further ready to deposit further a sum of Rs.4,50,00,000/- if the period of two months granted to them.

9. Mr. More submits that it is difficult for his client to deposit the entire decretal amount in the Small Causes Court.

10. I have heard both the sides and have gone through the contents of the interim order, admittedly the decretal amount is approximately of Rs.60,00,00,000/- (Rupees Sixty Crores only). The said amount granted forward mesne profits has been challenged by the petitioner by way of appeal and for the purpose of staying the execution of the impugned judgment and decree, the petitioner preferred an application Exhibit-9. The said Application exhibit-9 was decided by the Division Bench of the Small Court, thereby directing the petitioner to deposit a sum of Rs.18,43,78,137/- (Rupees Eighteen Crores Forty Three Lakhs Seventy Eight Thousand One Hundred Thirty Seven only) within six weeks. The said order was passed on 4 March 2023 a year has passed after the impugned order has been passed except deposit of

Rs.2,50,00,000/- (Rupees Two Crores Fifty Lakhs only) by the petitioner on 5 February 2024. The petitioner has not shown any inclination to deposit the amount as directed by the Appellate Court, i.e., Rs.18,43,78,137/- (Rupees Eighteen Crores Forty Three Lakhs Seventy Eight Thousand One Hundred Thirty Seven only).

11. Having considered the entire material available on record and the fact that suit premises is admeasuring 7,825 sq. ft situated at Marnine Lines, Mumbai- 400 020. The petitioner is not able to show any reasons for me to interfere with the impugned order passed by the Division Bench of the Small Causes Court. There is no merits in the present writ petition. The writ petition is dismissed.

(RAJESH S. PATIL, J.)