

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.2085 OF 2024****Surendra Singaneria****....*Petitioner*****V/s.****Shamsunder Shantaram Thakre (since
deceased) -****Vaibhav Shamsunder Thakre and Anr.****....*Respondents***

Mr. Swapnil D. Ambure *for the Petitioner.***Mr. Jaydeep Deo *for the Respondents.***

CORAM : SANDEEP V. MARNE, J.***Dated : 9 July 2024*****P.C. :-**

1) The challenge in the present petition is to the order dated 4 September 2023 passed by the Appellate Bench of the Small Causes Court directing the Petitioner/Appellant to deposit interim compensation of Rs.75,000/-from the date of decree during the pendency of the appeal. The challenge is essentially to the quantum of compensation fixed by the Appellate bench.

2) I have heard Mr. Ambure, the learned counsel appearing for the Petitioner and Mr. Deo, the learned counsel appearing for the Respondent-Plaintiff.

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3) It appears that the Plaintiff relies upon valuation report of M/s. Best Mulyankan Consultant Ltd., which quantified the amount compensation of Rs.1,24,982/- per month by considering the carpet area of the suit premises as 728.29 sq.ft. and built up area of 874 sq.ft. Said valuer applied per square feet rate of Rs.143/- to the built up area of 874 sq.ft. for arriving at the figure of Rs.1,24,982/-.

4) Mr. Ambure would submit that assumption on the part of the said Valuer of the Plaintiff that built up area of the suit premises as 874 sq.ft. itself is erroneous and the Appellate Bench has taken into consideration the area of the suit premises as more than 500 sq.ft. He would submit that though the Petitioner is ready to deposit the amount of compensation, the same cannot be astronomically high @ Rs.75,000/- per month considering the age of the building of more than 65 years as well as its dilapidated condition.

5) On the other hand, Mr. Deo has relied upon admission given by the Petitioner in his cross-examination to the effect that '*I am in possession of approximately 700 sq.ft. area (area of the suit premises)*'.

6) In my view, the above admission given by the Petitioner would correspond to carpet area of the suit premises indicated as 728.29 sq.ft. in the valuation report relied upon by the Plaintiffs. Though the Petitioner also relied upon the valuation report of M/s. Epicons Consultants Pvt. Ltd., the said Consultant did not indicate valuation on rental returns in respect of the suit premises. It proceeds on the carpet area of the suit premises as 543

sq.ft. with a caveat that details were not available. Considering the specific admission given by the Petitioner that area in his possession is about 700 sq.ft., in my view, the interim compensation fixed by the Appellate Bench @ Rs.75,000/- per month which works out to approximately Rs.107/- per sq.ft. appears to be reasonable considering that the premises are located in a commercial building in Kalbadevi, which is one of the business hubs in Mumbai. In that view of the matter, interim compensation of Rs.107 per sq.ft cannot be considered as excessive so as to warrant interference by this Court. Therefore, no case is made out for interference in the impugned order dated 4 September 2023. Writ Petition is devoid of merits and is accordingly dismissed.

7) After the order is pronounced, Mr. Ambure would submit that Petitioner has already deposited amount of Rs.18,00,000/- with the Small Causes Court and seeks time of three weeks to deposit the balance amount. Accordingly, the Petitioner is permitted to deposit the balance amount in the Small Causes Court, Mumbai within a period of three weeks from today.

[SANDEEP V. MARNE, J.]