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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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Date: 2024.03.21
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WRIT PETITION NO.3914 OF 2024

Chandrakant M. Jagtap

...Petitioner

V/s.

Shyam G. Shikhare & Ors.

...Respondents

Mr.Aditya Shirke for the Petitioner.

CORAM : RAJESH S. PATIL, J.

DATE : 18TH MARCH, 2024.

P.C. :-

1. The present Writ Petition challenges the order passed by the District Court, Pune on Application - Exhibit 19, in Regular Civil Appeal No.134 of 2023.

2. Regular Civil Appeal No.134 of 2023 has been filed by the Petitioner, who suffered an eviction decree. After filing of the Regular Civil Appeal No.134 of 2023, the Petitioner preferred an Application - Exhibit 19, seeking stay to the execution of the Trial Court. A reply was filed by the Landlord / Plaintiff

opposing the application and directing the Petitioner to pay a sum of Rs.75,000/- per month as compensation pursuant to the judgment of the Supreme Court in case of *Atma Ram Properties*, reported in *(2005) 1 SCC 705*.

3. Mr.Shirke appearing for the Petitioner submits that the suit premises though commercial premises, it admeasures 225 sq.ft. He submits that in any case the amount fixed as compensation by the District Court, Pune at Rs.50,000/- per month is far too much. He further submits that apart from the compensation payable, the Petitioner is also directed to furnish the security of Rs. 50.00 lakh and also to give an undertaking not to create any sought of third party interest in the suit premises. He submits that he has already served a copy of the Writ Petition on the Respondents by courier and he has also preferred affidavit of service to that effect which he is going to file in the Department.

4. Issue notice to the Respondents, returnable on 15 April 2024. Apart from the Court notice, the Petitioner is permitted to serve the Respondents by advocate's private notice by all

permissible modes of service and file affidavit of service before the returnable date.

5. In the meanwhile, the Petitioner is directed not to create any kind of third party interest in the suit premises. There will be *ad-interim* relief in terms of prayer clause (d) until further orders. Prayer clause (d) of the Writ Petition reads as under :-

“(d). Pending the hearing and final disposal of the present Writ Petition, (i) the execution, operation, implementation and effect of the impugned Judgment and Decree dated 03.05.2023 passed by the Ld. 5th Addl. Small Cause Judge & Jt. Civil Judge Senior Division, Pune, in Civil Suit No.275 of 2017 (Being Exhibit “C” to the Petition) and (ii) Execution Application No.87 of 2023 filed before the 5th Addl. Judge Small Causes Court, Pune, be stayed.”

6. Stand over to 15 April 2024.

(RAJESH S. PATIL, J.)