

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

WRIT PETITION NO.5922 OF 2024

Omprakash Jamuna Singh & Anr.

....Petitioners

V/S

The Sonawala Company Private Limited

....Respondent

Mr. Satyavan N. Vaishnav a/w Ms. Nupur J. Mukherjee,
Mr. Armaan Grewala i/b Mr. Rahul Raut *for the Petitioners.*

Mr. Pradeep Thorat a/w Ms. Anu Ravi Khanna *for
Respondent.*

CORAM: SANDEEP V. MARNE, J.

DATE : 26 NOVEMBER 2024.

P.C.:

1. The challenge in the present Petition is to the order dated 28 February 2024 passed by Appellate Bench of Small Causes Court allowing Revision Application No.375 of 2022 and fixing Rs.7,000/- per month towards the interim compensation to be deposited in the Small Causes Court under provisions of Order 15A of the Code of Civil Procedure, 1908 (**the Code**).

2. Plaintiff has instituted LE Suit No.52 of 2019 against the Defendants branding them to be gratuitous licensees. This Court in ***Apsara Development Corporation vs. Rafiq Siddiqui***, (Writ Petition No.1038 of 2022, decided on 1 November 2024) has already taken a view that provisions of Order 15A of the Code can be applied even to a suit for eviction of gratuitous licensee.

In that view of the matter, there can be no serious error on the part of the Appellate Bench in directing payment of some compensation during pendency of the suit under provisions of Order 15A of the Code.

3. The next issue is about the quantum of interim compensation fixed by the Appellate Court. The Appellate Court has determined the interim monthly compensation at the rate of Rs.7,000/-. It appears that the prayer of the Plaintiff was for determination of interim compensation at the rate of Rs.15,000/- per month. The Plaintiff himself relied upon valuation report of M/s. Khandekar Architects & Surveyors dated 27 August 2014 by which the compensation in respect of premises admeasuring 9.29 square meters in Sonawala Refinery Building, Tardeo, Mumbai was indicated at Rs.4,899/- per month. It appears that in another suit (LE & C Suit No.127 of 2016) filed by the Plaintiff for eviction of another gratuitous licensee, interim compensation at the rate of Rs.5,000/- per month has been fixed by the Trial Court by order dated 15 December 2018. Considering the above in my view, ends of justice would meet if interim compensation in respect of the suit premises is fixed at the rate of Rs.5,000/- payable from the date of filing of Application at Exhibit-10.

4. Accordingly the Writ Petition is partly allowed by modifying the order dated 28 February 2024 passed by the

Appellate Bench of the Small Causes Court. Petitioners/Defendants are accordingly directed to deposit interim compensation in the Trial Court at the rate of Rs.5,000/- per month from the date of application at Exhibit-10 till the date of decision of the suit. The entire arrears of the interim compensation upto February 2025 shall be deposited by the Petitioners/Defendants before the Trial Court on or before 28 February 2025.

5. Petitioners/Defendants shall continue to deposit interim compensation at the rate of Rs.5,000/- per month from 1 March 2025 onwards till decision of the Suit on or before 10th day of each succeeding month.

6. With the above directions, Writ Petition is partly allowed and **disposed of**.

(SANDEEP V. MARNE, J.)

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by
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