

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13682 OF 2024

Vijay Sadashiv Giri and Ors.

...Petitioners

V/s.

Suresh Bhikaji Jagdhane and Ors.

...Respondents

Mr. Pratik B. Rahade *for the Petitioners.*

CORAM : SANDEEP V. MARNE, J.

Dated : 15 October 2024.

P.C. :

1) Petitioners challenge order dated 13 August 2024 passed by the learned District Judge-15, Pune, allowing application at Exhibit-37 in Regular Civil Appeal No.532 of 2019 and reducing amount of interim compensation from Rs.7,000/- per month to Rs.3,500/- per month as a pre-condition for staying the eviction decree passed by the Trial Court. It appears that by order dated 12 December 2023 the Appellate Court has stayed the implementation, execution and operation of the eviction decree passed in Regular Civil Suit No.302 of 2017 on payment of interim compensation @ Rs.7,000/- per month. The quantum of interim compensation is now reduced from Rs.7,000/- to Rs.3,500/- per month by the impugned order dated 13 August 2024.

2) It must be observed at the very outset that the learned Appellate Court has not followed the principles enunciated by the Apex Court in its judgment in ***M/s. Atma Ram Properties (P) Ltd. Vs. M/s. Federal Motors Pvt. Ltd.***¹ and ***State of Maharashtra Vs. Super Max International Pvt. Ltd.***² while passing order dated 12 December 2023. Why the interim compensation was fixed at Rs.7,000/- per month is not deducible from the order dated 12 December 2023. The Appellate Court did not take any pains to determine valuation of the property while fixing the amount of interim compensation. While entertaining the application at Exhibit-37 further folly is committed by the Appellate Court in passing unreasoned order reducing the quantum of interim compensation to Rs.3,500/-. The only reason recorded by the Appellate Court in paragraph 7 of its order dated 13 August 2024 is as under:-

7] Considering reasons, submissions of both sides, amount of Rs.7,000/- per month was reduced to Rs.3,500/- per month for the reasons mentioned in the application. Thus, I answer point No.1 in the affirmative.

3) This Court therefore, would have been justified in interfering in the order dated 13 August 2024. However, it appears that while opposing the application for grant of stay to the execution of the decree, the Plaintiffs/Petitioners indicated valuation of the premises as per ready reckoner at Rs.22,80,050/-. If the actual value of the suit premises as per the prevailing ready reckoner rate is only Rs.22,80,050/- the residential rental return in Pune city would be in the range of 2 to 3% of the capital value. Therefore, as per their own valuation indicated by the Petitioner, the suit property is not likely to

1. (2005) 1 SCC 705
2. (2009) 9 SCC 772

fetch rental return in excess of Rs.4,000/- to Rs.4,500/-. The Appellate Bench has fixed the modified amount of interim compensation of Rs.3,500/- by order dated 13 August 2024. Therefore, though this Court is not convinced with the manner in which Appellate Court has passed order dated 13 August 2024, no case is made out for altering the modified amount of interim compensation of Rs.3,500/- fixed by the Appellate Court.

4) Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]