

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SATISH
RAMCHANDRA
SANGAR

WRIT PETITION NO.14714 OF 2024

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SATISH RAMCHANDRA
SANGAR
Date: 2024.11.04
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Shoukat Maqbul Nadaf and Anr.

...Petitioners

vs.

Mumtaz Nadaf and Ors.

...Respondents

Mr.Prajakt M. Arjunwadkar a/w Mr.Raj S. Satam:-	Advocates for Petitioners.
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CORAM : S. M. MODAK, J.

DATE : 24th OCTOBER 2024

P. C. :-

1. Heard learned Advocate Shri.Arjunwadkar for the Petitioners – Defendant Nos.1 and 2.
2. There is a Decree for possession by removing the encroachment against the present Petitioners. When the Appeal was filed, the Appellate Court as per the order dated 10th March 2023, stayed the Execution of the Decree. The Petitioner is not aggrieved by the stay but he is aggrieved due to the condition imposed for paying the compensation of Rs.3,000/- (Rupees Three Thousand).

3. The contention is raised that the observations made by the Hon'ble Supreme Court in case of *Atma Ram Properties (P) Ltd. V/s. Federal Motors (P) Ltd.*¹ cannot be extended to the present dispute considering the relationship. In that case, the relationship was in between the landlord and tenant. I do not think that the ad-interim relief can be granted. At the most, the Petitioner can deposit the amount and if succeeds in this Petition, amount can be returned back. At the most, the Appellate Court need not permit the Respondent No.1 to withdraw the amount until further orders by this Court.
4. Issue notice to Respondents returnable on **18th December 2024**. Private notice, in addition, is allowed. Affidavit of service be filed.
5. As the period for depositing the amount by the Appellate Court has expired, once the amount is deposited, the stay to the execution of Decree will be revived.

[S. M. MODAK, J.]

¹ (2005) 11 Supreme Court Cases 705