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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.270 OF 2024

IN

CIVIL REVISION APPLICATION NO.241 OF 2023

Smt.Kaiful A. Rauf

..Petitioner

V/s.

Municipal Corpn. Of Gr. Mumbai & Anr. ..Respondents

Ms.Shabana Latiwala for the Petitioner.

Mr.Drupad Patil with Mr.Anand Khairnar for MCGM -
Respondent No.1.

Mrs.Nasreen Khan – A.O. (S) E Ward present.

CORAM : RAJESH S. PATIL, J.

DATE : 2ND MAY, 2024.

P.C. :-

1. The Petitioner to file short synopsis before the next date. In the meanwhile since there is outstanding amount to be payable by the Corporation as per the order dated 4 July 2023, the Corporation to deposit the said amount before the Court of Small Causes, Mumbai within a period of one week from today.

The present Contempt Petition arises out of the eviction suit filed by the landlord against the Corporation on the ground of non-user.

2. The said suit filed by the landlord was decreed by the Trial Court and an Appeal carried against the said decree of the Trial Court was also dismissed. Against the concurrent findings recorded by the Trial Court and Appellate Bench of the Court of Small Causes, Mumbai, Civil Revision Application was filed by the Corporation before this Court. The said Civil Revision Application was admitted by this Court. However as an interim arrangement, this Court directed the Corporation to deposit Rs.2,40,000/- per month as a condition for stay of the execution of eviction decree. As of today, the Corporation has deposited a sum of Rs,19,20,000/- before the Court of Small Causes, Mumbai. The Corporation is also in arrears of Rs.14,40,000/- as of today. So also the Corporation has been directed to deposit every month a sum of Rs.2,40,000/- per month till further orders.

3. Ms.Shabnam Latiwala appearing for the Respondent /

landlord submits that the Corporation is not using the suit premises for more than 20 years, as the Corporation has shifted its school premises to nearby building at Mazgaon.

4. However, Mr.Patil appearing for the Corporation has disputed the submissions made by Advocate Ms.Shabna Latiwala.

5. Ms.Shabnam Latiwala appearing for the Respondent / landlord on instructions of her client, states that her client is ready to forgo the entire monetary claim, including the monetary claim as per the judgment of the Supreme Court in the case of *Atma Ram Properties,(P) Ltd. vs. Federal Motors (P) Ltd.* reported in *(2005) 1 SCC 705*, and the mesne-profit if the Corporation, who is not using the suit premises is ready to vacate the suit premises by May 2024. Mr.Patil appearing for the Corporation on instructions of the officer, who is present in Court, has submitted that on the submissions made by the counsel for the landlord, he will take instructions from the superior officer of the Corporation and will reply to the same to this Court on the next date of hearing.

6. As a narrow issue is involved, by consent, place the Civil Revision Application on 9 May 2024 at 2:30 p.m. for hearing and final disposal (First on Board). *Ad-interim* relief, if any, granted earlier to continue till the next date of hearing.

(RAJESH S. PATIL, J.)