

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

**INTERIM APPLICATION NO.1589 OF 2024
IN
CIVIL REVISION APPLICATION NO.38 OF 2024**

Sagar Construction Company	Applicant
IN THE MATTER BETWEEN	
Post Master General & Ors.	Applicants
V/S	
Sagar Construction Company	Respondent

**WITH
INTERIM APPLICATION NO.14555 OF 2023
IN
CIVIL REVISION APPLICATION NO.38 OF 2024
WITH
CIVIL REVISION APPLICATION NO.38 OF 2024**

Post Master General & Ors.	Applicants
V/S	
Sagar Construction Company	Respondent

Ms. Savita Ganoo i/b Ms. Anusha P. Amin *for the Applicants.*
Mr. N.P. Bhavsar *for Respondent.*

CORAM: SANDEEP V. MARNE, J.
DATE : 18 DECEMBER 2024.

P.C.:

1 The Interim Application No.1589 of 2024 is filed by the Respondent/Plaintiff seeking enhancement of interim compensation fixed by the Appellate Bench of Small Causes

Court for granting stay to the execution of decree under provisions of Order 41, Rule 5 of the Code of Civil Procedure, 1908 (**the Code**) to Rs.50,000/- per month with further prayer to permit withdrawal of the deposited amount of interim compensation.

2 I have heard Mr. Bhavsar, the learned counsel appearing for the Applicant in the Interim Application and Ms. Ganoo, the learned counsel appearing for the Revision Applicants.

3 It appears that by order dated 17 December 2021 the Appellate Court has fixed the interim compensation in respect of the suit premises at the rate of Rs.35,000/- per month and has directed the Revision Applicants to deposit the same from the date of decree i.e. 16 February 2021.

4 Ms. Ganoo would oppose the Application submitting that the Plaintiff has not produced any material for enhancing the amount of interim compensation fixed by the Appellate Bench of Small Causes Court. However, the compensation was fixed four years ago on 17 December 2021. Even if some increment in the amount of rent is taken into consideration, the amount of interim compensation is now required to be enhanced. The Revision Applicants are occupying commercial premises admeasuring 974 sq.ft. in Malad (East). The interim compensation of Rs.35,000/- fixed by the Appellate Bench of the Small Causes Court appears to be on a lower side considering

the area of the suit premises and its location. In my view, it would be appropriate to enhance the amount of interim compensation to Rs.45,000/- per month considering passage of four years from the date of fixation of interim compensation by the Appellate Bench on 17 December 2021.

5 The next prayer of the Applicant is to permit it to withdraw a deposited amount of interim compensation. In view of law enunciated by the Apex Court in **M/s Atma Ram Properties (P) Ltd. vs. M/s. Federal Motors Pvt. Ltd. (2005) 1 SCC 705** Applicant cannot be permitted to withdraw the amount of interim compensation.

6 I accordingly proceed to pass the following order:

- i) Interim compensation in respect of the suit premises is fixed at the rate of Rs.45,000/- per month depositable from the date of this order.
- ii) The Revision Applicants shall accordingly deposit enhanced interim compensation at the rate of Rs.45,000/- per month from January 2025 onwards before the Small Causes Court.
- iii) The prayer of the Applicant for withdrawal of the interim compensation is rejected.

7 The Interim Application No.1589 of 2024 is accordingly **disposed of.**

8 List the Civil Revision Application and Interim Application No.14555 of 2023 on **4 February 2025.**

9 Interim order granted shall continue to operate till the next date of hearing.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

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by SUDARSHAN
RAJALINGAM
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