

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

**CIVIL REVISION APPLICATION NO.137 OF 2024
WITH
INTERIM APPLICATION NO.6370 OF 2024
IN
CIVIL REVISION APPLICATION NO.137 OF 2024**

Prasannan K.R. & Anr.

...Applicants

vs.

Indirarani Ugrasen & Ors.

...Respondents

....

Mr. Vikram Walawalkar a/w Mr. Iqra Qureshi i/b Mr. Kamalakant Pandey,
for the Applicants.

Mr. Anilkumar K. Patil for Respondent No.1.

....

CORAM : SANDEEP V. MARNE, J.

DATE : 16 JULY 2024

P.C. :

1 Heard Mr. Walawalkar, the learned counsel appearing for the Applicants and Mr. Patil, the learned counsel appearing for the Respondent No.1/original Plaintiff.

2 It appears that the Applicants are 2nd set of Obstructionists who had presented obstruction to execution of the decree when the Bailiff had sought to execute the same on 9 July 1997. The Decree-Holder was accordingly required to file 2nd Obstructionist notice. The 1st Obstructionist notice on account of obstruction created by the 1st set of obstructionist came to be made absolute by the Executing Court and the order came to be upheld by

the Appellate Bench in the year 1996. Thereafter the Applicants have obstructed the decree as 2nd set of Obstructionists.

3 The Executing Court while making the 2nd obstructionist notice absolute has directed Applicants to pay to the Plaintiff monthly compensation/mesne profit at the rate of Rs.2,000/- per month from 15 July 2009 till delivery of possession of the suit premises. It appears that the Applicants are enjoying possession of the suit property and are preventing decree holders from executing the decree dated 12 September 1983 without paying a farthing for use of the premises. The Trial Court has relied upon judgment of the Apex Court in **Marshall Sons & Company (I) Ltd. vs. Sahi Oretans Pvt. Ltd. & Ors.** AIR 1999 SC 882, for directing deposit of mesne profits by the Applicants.

4 In order to test the *bonafide* of the Applicants, the Applicants shall deposit the entire amount of mesne profits as directed by Executing Court at the rate of Rs.2,000/- from 15 July 2009 till July 2024 within a period of four weeks from today.

5 List the Civil Revision Application for further consideration on **19 August 2024.**

(SANDEEP V. MARNE, J.)