

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

**Interim Application No. 10494 of 2024
In
Civil Revision Application No.76 of 2024**

Shashikant Balakrishna Mistri ... Applicant
V/s.
Chetna Rajendra Kansara ... Respondent

Mr. Arjun Kode a/w. Mr. Ashvin Bansod	Advocate for the Applicant
Mr. Ravindra Vishnu-Laxmi Sankpal, Moksh Jain, Medhavi M. Dalvi i/b. R.V. Sankpal & Associates	Advocate for Respondents

CORAM : S.M. MODAK, J

DATE : 23 October 2024.

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Matter is mentioned out of turn.

2. Heard learned Advocate for the applicant and learned advocate for the respondents.

3. Civil Revision Application was dismissed due to fault of the learned advocate for the applicants. It was kept on 1 July 2024 and then kept on 2 July 2024 for dismissal. This Civil Application was

preferred against the judgment of City Civil Court passed in Suit filed under Section 6 of Specific Relief Act. It is true that this Court has stayed the order under challenge on 16 March 2023. This was passed only on hearing applicant.

4. Subsequently, respondent appeared and filed interim application No.7043/2024. The prayer is to issue directions to the applicant to pay Rs.25,75,000/-. This was the amount of arrears till 15 January 2024. Further monthly amount is Rs.25,000/-. The respondent has got a foundation for asking this relief. This is on the basis of an order passed by the Small Causes Court in RAD Suit filed by the applicant.

5. It is true that the litigant should not suffer for the lapse of the Advocate. The allegations are denied but the fact is the application is listed on 1 July 2024 and immediately on 2 July 2024. Lapse of the Advocate cannot be always the ground for seeking relief. However, in this case I am accepting it. Hence, the interim application is allowed in terms of prayer clause (a).

6. I have heard both the sides on the point of grant of **compensation.**

7. The learned advocate for the applicant fairly admits that even his client could not deposit an amount of Rs.1,00,000/- permitted to

by the appellate Bench of the Small Causes Court and that is why challenge to the order of interim compensation also failed and writ petition is pending. It is contended that applicant is a maid servant and earning only Rs.12,000/- per month. It is important to note that there is a possession decree against the applicant. If there is a stay, it has to be subject to condition to deposit certain amount.

8. At this stage, the Court is not having any material to consider the amount of interim compensation but considering all the aspects, I think the applicant can be asked to deposit Rs.5,00,000/- before the City Civil Court within one week. Hence, the decree passed by the City Civil Court, Mumbai dated 8 September 2022 in Suit No.1969/2015 is stayed till next date subject to deposit of that amount.

9. Stand over to **2 December 2024**.

10. The stay will be vacated if the amount is not deposited within one week.

11. Interim Application No.10494/2024 stands disposed of.

12. Further directions can be given after hearing the parties.

(S.M. MODAK, J.)