

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13784 OF 2024

Meena Chauhan & Anr.	...Petitioners
<i>Versus</i>	
Laiq Ahmed Sheikh & Ors.	...Respondents

Ms. Aditi S. Naikare a/w. Mr. Avdhut V. Patil, for the Petitioners.
Mr. Akash Giri a/w. Mr. Md. Shahid Hussain i/b. Tabrez K. Bahauddin, for the Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.
DATED : 19th MARCH 2025

PC:-

1. Heard Ms. Naikare, learned Counsel appearing for the Petitioners and Mr. Giri, learned Counsel appearing for the Respondent No.1.

2. The challenge in this Writ Petition filed under Article 227 of the Constitution of India, is to the order dated 26th August 2024 passed by the learned Appellate Bench of the Small Causes Court at Mumbai below Exhibit-6 in Appeal No.38 of 2024. By the impugned order, while staying the eviction decree dated 14th June 2024 passed in R.A.E. Suit No.294/776 of 1995, the Petitioners have been directed to deposit the interim compensation at the rate

of Rs.10,000/- per month from the date of Judgment and Decree dated 14th June 2024 till final disposal of the Appeal.

3. Perusal of the impugned order shows that both the parties have not produced any documentary evidence for determining the amount of compensation except, a photocopy of leave and license agreement produced by the Respondent No.1 at the time of argument. However, the learned Appellate Bench has not relied on the same, as the same is photocopy.

4. In this Writ Petition both the parties have produced leave and license agreement of several premises, which are in the same chawl or in the adjoining area. Thus, it is clear that the learned Appellate Bench has passed the order without any documentary evidence for the purpose of determining the amount of compensation. Accordingly, the following order is passed:

ORDER

(a) The impugned order dated 26th August 2024 passed by the learned Appellate Bench of Small Causes Court

at Mumbai below Exhibit-6 in Appeal No.38 of 2024 is quashed and set aside.

- (b) The said Application bearing Exhibit-6 filed in Appeal No.38 of 2024 is restored to the file of learned Appellate Bench of Small Causes Court at Mumbai for fresh disposal.
- (c) Both the parties to file their respective affidavits before the learned Appellate Court bringing on record various leave and license agreements and other material showing the reasonable and fair compensation.
- (d) Both the parties shall be also given opportunity to file rejoinder.
- (e) This order is passed as Ms. Naikare, learned Counsel appearing for the Petitioners, on instructions, states that the Petitioners will pay Rs.10,000/- per month without prejudice to the rights and contentions of the

Petitioners and also arrears will be deposited at the rate of Rs.10,000/- per month before the learned Appellate Court within a period of two months from today.

- (f) Accordingly, the impugned order is quashed and set aside and said Application bearing Exhibit-6 in Appeal No.38 of 2024 is restored to the file of the learned Appellate Bench of Small Causes Court at Mumbai, subject to above.
- (g) It is made clear that payment of compensation at the rate of Rs.10,000/- and deposit of arrears is without prejudice to the rights and contentions of both the parties.
- (h) Till the decision of said Exhibit-6 Application in Appeal No.38 of 2024, the eviction decree shall remain stayed subject to the Petitioners making payment of compensation at the rate of Rs.10,000/-

per month and also paying the arrears within the time as directed above.

- (i) It is clarified that this Court has not expressed any opinion with respect to the merits of compensation amount with respect to the suit premises and all contentions of both the parties are expressly kept open.

5. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]

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