

Arjun

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

**ARJUN
VITTHAL
KUDHEKAR**

WRIT PETITION NO.16862 OF 2024

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ARJUN VITTHAL
KUDHEKAR
Date: 2025.04.09
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Aziz Ismail Miya Mohammed

...Petitioner

Versus

Ramchandra Dungarshi Joshi & Ors.

...Respondents

Mr. Kunal Bhanage a/w Akshay Pawar & Priyanka Acharrya i/b Vasim Siddiqui, for the Petitioner.

Mr. Deepak Talwar i/b Dharmesh Joshi, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.

DATED: 08 APRIL 2025

P.C.:

1. By the present Writ Petition filed under Article 227 of the Constitution of India the challenge is to the legality and validity of the Order dated 17th October 2024 passed by the learned Appellate Bench of the Small Causes Court at Bombay below Exhibit - 6 in Appeal No.42 of 2023 in RAE Suit No.656/1152 of 2008 ("impugned Order"). The operative part of the impugned Order reads as under :-

"ORDER

1.	<i>The application is allowed.</i>
2.	<i>The execution of impugned judgment and decree dated 29.11.2022 passed in R.A.E. Suit No.656/1152 of 2008 is stayed till final decision of this appeal on the following conditions :</i>
(a)	<i>The appellant shall deposit Rs.50,000/- (Rupees Fifty</i>

	<i>Thousand Only) per month as interim compensation in the Court from the date of the impugned decree i.e. 29.11.2022 till October, 2024 along with arrears of rent @ Rs.81.60/- per month from 29.11.2022 till October 2024 within one month from the date of this order, failing which, the plaintiff/respondent is at liberty to execute the decree.</i>
(b)	<i>The appellant shall go on depositing the monthly compensation and rent at such rate on or before 10th day of each succeeding month full final decision of the appeal.</i>
(c)	<i>The plaintiff/respondent is at liberty to withdraw the amount of rent as and when deposited by the appellant in the Court.</i>
(d)	<i>The amount of compensation shall be invested in any Nationalized Bank initially for a period of one year, which period shall be renewed yearly by the office of the Court, if required.</i>
(e)	<i>The appellant shall file an Undertaking on affidavit to the effect that they will not part with possession of the suit premises and will not create any third party right in the suit premises till final decision of this appeal within 8 days from today.</i>
3.	<i>Costs in main cause.”</i>

2. After arguing the matter for some time, both the learned Counsel agree that, by consent of the parties, the impugned Order be modified by directing that instead of deposit of Rs.50,000/- per month as interim compensation the same be reduced to Rs.35,000/- per month. Both the learned Counsel on instructions state that Order be passed by consent of the parties and therefore no reasons are required to be given.

3. Accordingly, the impugned Order dated 17th October 2024 is modified by directing that instead of Rs.50,000/- per month as interim compensation the same is at the rate of Rs.35,000/- per month.

4. It is clarified that all other terms and conditions of the impugned Order dated 17th October 2024 shall remain the same except the said modification, however the Petitioner is permitted to deposit arrears at the rate of Rs.35,000/- on or before 31st May 2025 on the request of the Petitioner. The said statement of the Petitioner is accepted as undertaking given to the Court.

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

[MADHAV J. JAMDAR, J.]