

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.788 OF 2025

Mohammed Aslam Chowdhary

...Petitioner

Versus

Adrian V. J. Dias & Ors.

...Respondents

Mr. Vrushabh Savla, Advocate, for the Petitioner.

CORAM: MADHAV J. JAMDAR, J.

DATED : 29th JANUARY 2025

P. C.:

1. Heard Mr. Vrushabh Savla, learned Counsel appearing for the Petitioner.

2. 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 28th November 2024 passed by the Division Bench of the Small Causes Court, Mumbai below Exhibit-7 in (A1) Appeal No.133 of 2023 in R.A.E. & R. Suit No.67/158 of 1994. By the impugned order, execution and operation of the Judgment and Decree dated 1st April 2023 passed by the learned Trial Court in R.A.E. & R. Suit No.67/158 of 1994 is stayed on the conditions

that, the Petitioner deposits in the Court interim compensation in respect of suit premises at the rate of Rs.65,000/- per month for the period from 1st April 2023 till 30th November 2024 within two equal installments on or before 16th December 2024 and 16th January 2025 and further directed to continue to deposit in the Court interim compensation of Rs.65,000/- w.e.f. 1st December 2024 and onwards till disposal of the Appeal on or before 10th day of each succeeding month. The impugned order has been challenged only to the extent of fixing compensation at the rate of Rs.65,000/- per month.

3. Mr. Savla, learned Counsel submitted that the building is very old and the Petitioner is doing only work of repairing of bats and therefore, interference is warranted.

4. While passing the impugned order, the learned Appellate Court has taken into consideration the leave and licence agreement of nearby premises. The learned Appellate Court *inter alia* took into consideration the following:

(a) The leave and licence agreement dated 17.10.2023 executed between Mr. Tapan Agrawal V/s. The Devi Bangles. As per the said agreement, Rs.1,65,000/- per month is a leave and licence fees for commercial shop situated at ground floor, admeasuring 545 sq.ft.

(b) Leave and licence agreement for commercial shop situated at Kakad Arcade, B wing, Marine Lines. The said premises on the ground floor commercial shop admeasuring 450 sq.ft. and as per the said agreement, rent per month is Rs.1,14,545/-.

5. Apart from above, it has been observed by the learned Appellate Court that the suit premises is situated in a very prominent area at Dhobi Talao and the suit premises is adjacent to Metro Cinema. The same is very prime area of Mumbai city. Near Metro Cinema many important shops related to sports are situated. The suit premises is 500 sq.ft., where the Petitioner is running the commercial activity relating to sport. Considering overall circumstances, compensation fixed by the learned Appellate Court of Rs.65,000/- per month is fair and reasonable. Thus, no

interference is required under the jurisdiction of this Court under Article 227 of the Constitution of India.

6. However, the Petitioner is granted additional time to deposit the compensation for the period from 1st April 2023 till 30th November 2024. The same be deposited on or before 31st July 2025 before the learned Small Causes Court, Mumbai. The Petitioner to deposit Rs.65,000/- per month on or before 10th day of each month. Arrears if any, w.e.f. 1st December 2024 shall be deposited before the learned Small Causes Court, Mumbai within a period of 15 days from today.

7. Accordingly, no interference in the impugned order is required, subject to above modification. The Writ Petition is dismissed, however with no order as to costs.

[MADHAV J. JAMDAR, J.]

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