

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3504 OF 2025

M/s. Morries Securities Pvt Ltd

...Petitioner

Versus

Mrs. Hetal Haresh Jatani & Ors.

...Respondents

Mr. Vishal Kanade a/w Mr. Subit Chakrabarti a/w Ms. Khushnumah Banerjee i/b Vidhi Partners, for the Petitioner.

Ms. Ranjana Parikh, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.

DATED: 27th MARCH 2025

P.C.:

1. Heard Mr. Kanade, learned Counsel appearing for the Petitioner and Ms. Parikh, learned Counsel appearing for the Respondents.

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 29th January 2025 passed by the learned Appellate Bench of the Small Causes Court, Mumbai below Exhibit-7 in (A1) Appeal No.390 of 2018 in RAE & R. Suit No.203/424 of 1998. The operative part of the said impugned Order dated 29th January 2025 reads as under :-

ORDER

1. Application Exh.7 is allowed.

2. Execution and Operation of impugned decree dated 27.08.2018 in respect of possession only passed by learned trial Court (C.R.No.16) in RAE & R Suit No.203/424 of 1998 is hereby stayed till disposal of this Appeal subject to following conditions:

(i) The Appellant shall deposit in the Court compensation in respect of suit premises @ Rs.1,50,350/- per month for the period from the date of decree i.e from 27.08.2018 till 31.01.2025 in two equal installments i.e on 10.02.2025 and 10.03.2025.

ii) The Appellant shall continue to deposit in the Court compensation of disputed premises @ Rs.1,50,350/- per month w.e.f 01.02.2025 and onwards till disposal of the appeal on or before 10th day of each succeeding month.

3. The Registrar of this Court is hereby directed to invest the amount of compensation as and when deposited by the appellant in the Court in fixed deposit for the term of at least three years in the nationalized bank immediately on the very next working day in accordance with the law.

4. The Appellant shall furnish an undertaking in the Court that it will not part with possession of the suit premises or create third party interest therein within two weeks from the date of this order.

5. Needless to say that compensation as ordered above if not deposited in time and undertaking as ordered above is not filed within time stay will vacate automatically without further reference.

6. Cost in Cause.

7. Inform the learned Trial/Executing Court accordingly.”

3. Both the learned Counsel state that no detailed reasons be given for passing the order modifying the said compensation and the order to that extent can be passed by consent of the parties. Accordingly, by consent of the parties an amount of Rs.1,50,350/-per month as determined by the Appellate Court as compensation is modified to Rs.80,000/- per month. Except the said modification the said Order dated 29th January 2025 is confirmed. It is clarified that this order is

passed without prejudice to the rights and contentions of both the parties. The arrears, if any, are permitted to be deposited within a period of four weeks from today.

4. At this stage Ms. Parikh, learned Counsel appearing for the Petitioner states that the Respondents have to pay property taxes of approximately Rs.30,000/- annually and also property is required to be maintained. Accordingly, the Respondent No.1 is permitted to withdraw an amount of Rs.60,000/- per year for the purpose of payment and towards maintenance of property taxes. Ms. Parikh, state that as and when the property taxes are paid the copies of relevant receipts/bills will be supplied to the Petitioner.

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

[MADHAV J. JAMDAR, J.]