

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.5226 OF 2025

M/s J. Bracewell Private Ltd.

...Petitioner

Versus

Mansoor Ebrahim Nagree & Anr.

...Respondents

Mr. Tushar Dahibawkar i/b M/s. Dahibawkar & Co., for the Petitioner.

Mr. Jai Chhabria a/w Ms. Rashne Mulla Feroze, Mr. Shrinivasan Mudaliar, Mr. Dinkar Desai i/b Federal & Company, for the Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.

DATED: 22nd APRIL 2025

P.C.:

1. Heard Mr. Dahibawkar, learned Counsel appearing for the Petitioner and Mr. Chhabria, learned Counsel appearing for the Respondent No.2.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and the validity of the Order dated 4th April 2025 passed by the learned Appellate Bench of the Small Causes Court, Mumbai below Exhibit-11 in Appeal No.45 of 2025 in RAE Suit No.1028/1534 of 2010. By the impugned order Rs.1,00,000/- per month has been fixed as compensation as a condition of stay in terms of the law laid down in the decision of *Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd.*¹.

3. It is the main contention of Mr. Dahibawkar, learned Counsel for

¹ (2005) 1 SCC 705

the Petitioner that the Petitioner has voluntarily offered an amount Rs.75,000/- per month as compensation. However, the suit premises are 500 sq. ft commercial premises, they are situated at Nagree Building, 50 Shahid Bhagat Singh Road, Opposite Old Custom House. Thus, the suit premises are in very prime locality of Mumbai. The learned Appellate Court has observed that the suit building is situated near Horniman Circle as well as two minutes walking distance from Bombay Stock Exchange. The learned Appellate Court by giving valid reasons has fixed the amount of compensation of Rs.1,00,000/- per month. Thus, no interference in the impugned Order is warranted.

4. However Mr. Dahibawkar, learned Counsel for the Petitioner points out that the learned Appellate Court has granted stay by orally directing the Respondent not to execute the decree. The learned Trial Court has passed the decree on 3rd January 2025. Mr. Dahibawkar, learned Counsel submits that the Appeal came up before other learned Appellate Bench of the Small Causes Court on 3rd April 2025 and the other Division Bench has passed oral direction not to execute the decree. The learned Division Bench which passed the impugned Order has observed that there is no record of oral direction. However, as the direction is oral, Mr. Dahibawkar, learned Counsel, is right in contending that there cannot be any record of the same.

5. As noted hereinabove, however, in the facts and circumstances no

interference in the impugned Order is required.

6. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

7. Mr. Dahibawkar, learned Counsel for the Petitioner at this stage, states that time to deposit compensation be extended by 2 weeks. Accordingly, the said time be extended by 2 weeks from today. Accordingly, for a period of 2 weeks the execution shall remain stayed.

[MADHAV J. JAMDAR, J.]