

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6314 OF 2025

Azizur Rehman & Anr. ...Petitioners
Versus
The Board of Mumbai Port Authority & Ors. ...Respondents

Mr. Vishal Kanade a/w. Mr. Dhishan Kukreja, Mr. Mohan Salian,
Ms. Harshita Kotian i/b. MGS Legal, for the Petitioners.
Mr. Roopadaksha Basu i/b. M/s. The Law Point, for the Respondent
No.1.

CORAM: MADHAV J. JAMDAR, J.
DATED : 8th MAY 2025

P. C.:

1. Heard Mr. Kanade, learned Counsel appearing for the
Petitioner and Mr. Basu, learned Counsel appearing for the
Respondent No.1.

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 April 2025 passed by the learned Appellate
Bench of the Small Causes Court, Mumbai below Exhibit-7 in P.
Appeal No.24 of 2024. By the impugned order, compensation of

Rs.4,00,000/- per month is directed to be paid during the pendency of the suit.

3. Perusal of the impugned order shows that both the parties have not filed Valuation Report before the learned Appellate Court. The order records that ready reckoner rate has been taken into consideration. However, there is no other material. Thus, in view of this position, impugned order dated 29th April 2025 passed by the learned Appellate Bench of the Small Causes Court, Mumbai below Exhibit-7 in P. Appeal No.24 of 2024 is quashed and set aside and said application bearing Exhibit-7 in P. Appeal No.24 of 2024 is restored to the file of the learned Appellate Court of the Small Causes Court, Mumbai.

4. Mr. Kanade, learned Counsel states that the Valuation Report along with affidavit will be filed before the learned Appellate Court within a period of six weeks from today. The Respondent-the Board of Mumbai Port Authority to file reply within a period of three weeks thereafter. Rejoinder if any, to be filed within two weeks thereafter. The learned Appellate Court to decide afresh the compensation amount.

5. It is clarified that as the Valuation Report has not been filed by both the parties and therefore, as the learned Appellate Court has determined the compensation on the basis of inadequate material, the impugned order is quashed and set aside.

6. It is further clarified that this Court has not expressed any opinion on merits and only on the above limited issue the impugned order is quashed and set aside.

7. Mr. Kanade, learned Counsel, on instructions of the Petitioner No.1, who is personally present in Court, states that an amount of Rs.1,50,000/- per month will be deposited before the learned Trial Court w.e.f. date of decree of learned Trial Court i.e. from 5th December 2023. He states that the said amount of Rs.1,50,000/- per month will be deposited on or before 10th day of each succeeding month. First such deposit will be made on or before 10th June 2025. As far as the arrears are concerned, the same shall be deposited before the learned Trial Court within a period of three months with three equal monthly installments. First installment shall be deposited on or before 30th May 2025, second

installment shall be deposited on or before 30th June 2025 and third installment shall be deposited on or before 30th July 2025.

8. It is clarified that stay to the eviction decree dated 5th December 2023 passed in L.E. & C. Suit No.396/436 of 1987 shall remain in operation, if the ad hoc compensation as directed above is deposited, till the learned Appellate Court passes fresh order on the said Exhibit-3 application in P Appeal No.24 of 2024. In case of any default, the stay granted shall come to an end forthwith without reference to the Court.

9. It is clarified that said amount of Rs.1,50,000/- is an ad hoc compensation and the same is fixed without prejudice to the rights and contentions of both the parties. The learned Appellate Court to determine the compensation required to be paid by the Petitioner as condition of the stay in terms of the law laid down by the Supreme Court in *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.*¹ and other decisions. The learned Appellate Court is requested to dispose of Exhibit-7 application filed in P Appeal

1 (2005) 1 SCC 705

No.24 of 2024 expeditiously after filing of the affidavit, reply and rejoinder, if any, as referred earlier.

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

[MADHAV J. JAMDAR, J.]

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