IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8725 OF 2025

Ardham Logistics and Infrastructure Pvt. Ltd. … Petitioner
versus
The Colaba Central Co-op. Consumers
Wholesale and Retail Stores Ltd. … Respondent

Mr. Nishant Vyas with Mr. Joshna Samuel i/by L.J.Law, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 7 JULY 2025

P.C.

1. Heard the learned Counsel for the parties.

2. The challenge in this Petition is to an order dated 15 October 2024 passed by the Appellate Bench of the Court of Small Causes in Revision Application No.301 of 2023, whereby the Revision Application preferred by the Respondent came to be allowed and the order passed by the Trial Court below Exh.10, determining the interim compensation came to be modified.

3. By the impugned order, the Appellate Bench directed the Defendant to pay monthly compensation to the Plaintiff – Petitioner herein, as was agreed under the MOU dated 21 July 2016, as against the award of interim compensation at double the rate of the licence fee in terms of clause 38 of the registered Leave and Licence Agreement executed between the parties on 21 July 2016.

4. The said agreement was to be effective for a term of five years

commencing from 1 September 2016. The term expired on 31 August 2021. By a separate MOU of even date, the parties had agreed to enter into a Leave and Licence Agreement and allow the Defendants to occupy the subject premises for a further term of five years commencing from 1 September 2021 at a licence fee of Rs.3,88,175/- plus service taxes; which was to be increased by 15% after every three years.

5. It appears that the Leave and Licence Agreement, as agreed, could not be executed. The Defendant continued to occupy the subject premises. The learned Trial Judge was of the view that the Leave and Licence Agreement which expired by the efflux of time continued to govern the rights of the parties, and, thus, the Defendant was liable to pay compensation at double the rate of the licence fee in terms of Clause 38. The Appellate Court reversed the said finding of the Trial Court.

6. Learned Counsel for the Petitioner submitted that since a fresh Leave and Licence Agreement could not be executed, the Defendant was liable to pay compensation in terms of the registered Leave and Licence Agreement dated 21 July 2016. Reliance was sought to be placed on a judgment of the Division Bench of this Court in the case of Loreal India Pvt. Ltd., Mumbai V/s. Global Earth Properties and Developers Pvt. Ltd., Mumbai and Anr.[1]

7. This Court is persuaded to take a view that the revisional Court

1 2009(5) Mh.L.J. 215

correctly modified the order passed by the learned Trial Judge. The registered Leave and Licence Agreement expired by afflux of time. It is not the case that during the period of the Leave and Licence Agreement by way of an unregistered document, the terms of the registered documents were sought to be varied. MOU was for the period of five years after the expiry of the term of the licence under the Registered Leave and Licence Agreement. In these circumstances, the revisional Court was justified in modifying the order passed by the Trial Judge.

8. In any event, the order passed by the Trial Court was for determination of interim compensation. At the final adjudication of the suit, the Trial Court would be at liberty to decide the issue of compensation for the occupation of the premises.

9. Subject to the aforesaid clarification, the Writ Petition stands dismissed.

(N.J.JAMADAR, J.)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 08/07/2025 15:00:12