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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 11508 OF 2025
IN
CIVIL REVISION APPLICATION NO. 946 OF 2010

Ashok Devraj Gupta ...Applicant
In the matter between:
M/s. Ambica Sewing Machine Pvt. Ltd. ...Revision Applicant
Versus
Ashok Devraj Gupta ...Respondent

Ms. Priyanka Pandey i/b. Mr. Himanshu Vidhani for the Applicant.
Mr. Siddharth R. Ingale i/b. India Law Alliance for Respondent/
Revision Applicant in CRA.

CORAM : M.M. SATHAYE, J.

DATE : 28th NOVEMBER, 2025

P.C. :

1. Heard learned counsel for the parties. Perused the record.
2. This is an application by successful landlord for withdrawal of the amount of interim compensation deposited by Revision-Applicant/Tenant pursuant to the Order of this Court.
3. On 09.07.2012, while admitting the revision application, the Revision-Applicant was directed to deposit Rs.50,000/- per month by way of interim compensation for use and occupation of the suit premises, based on the law laid down in **Atmaram Properties Pvt. Ltd. v/s. Federal Motors Pvt. Ltd.** [(2005) 1 SCC 705].
4. Learned counsel for the Applicant-Landlord submitted that the Revision-Applicant continues to occupy the suit premises, while, the

landlord is deprived of the fruits of decree. It is submitted that it is inequitable to allow the compensation amount to remain locked in Court, depriving the Applicant-Landlord of the financial benefit thereof.

5. On the other hand, learned counsel for the Revision Applicant-Tenant submitted that the Revision Application is pending and the legality of the impugned order of eviction is yet to be tested by this Court. He submitted that in such circumstances, if the amount is permitted to be withdrawn and ultimately the Revision Applicant succeeds, it will be difficult to recover the money from the Applicant-Landlord.

6. Admittedly the suit premises involved is about 5000 sq. ft. industrial premises situated at Saki Naka, Andheri, Mumbai. The decree of eviction was passed in September 2004, which is confirmed by the Appeal Court in August 2010. Revision Application filed by Revision Applicant/Tenant is pending for final disposal. Admittedly the Revision-Applicant is occupying the suit premises and decree of eviction is stayed. Considering these facts, the area in occupation, its location, the length of occupation from September 2004 till today, and the amount involved, partial withdrawal can be permitted, without prejudice, subject to undertaking and subject to final outcome of the petition.

7. In the aforesaid facts and circumstances, in my view, **following order** would meet the ends of justice and balance of equities :

i. **Subject to** the Applicant (Ashok Devraj Gupta) filing an

undertaking in this Court within a period of 2 weeks from today, stating that (i) the withdrawal of the amount as permitted by the Court shall be subject adjustment and subject to final outcome of the Revision Application and further that (ii) the Applicant shall bring back the amount along with interest as may be directed by this Court, at the time of final hearing of revision application, **the Applicant is permitted** to withdraw 50% of the amount deposited in this Court along with accrued interest, if any.

ii. This order is without prejudice to the rights and contention of both the parties.

8. Interim application is disposed of in above terms.

9. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)