IN THE HIGH COURT OF BOMBAY AT GOA

MISCELLANEOUS CIVIL APPLICATION NO.93 OF 2026
IN
SECOND APPEAL NO.7 OF 2013

Nanu Engineers Private Limited,
A Company incorporated under the Companies Act, 1956, Having its Head office at House No. 15/1448, 'Nanu House', Behind Grace church, Varde Valaulicar Road, Margao, Goa 403 601
Represented herein by its Director, Mr. Sankalp Sandesh Naik, Indian National, Aged 41 years, residing at House No. 2831, Krishnasheel", Monte-Hill, Borda, Margao, Goa 403 602.

...Applicant
(Original Respondent No.2)

IN

Bharat Petroleum Corporation Limited ... . Appellant

versus

Tajdin Javeribhai Mavany and Anr. ... Respondent.

Mr S. S. Kantak, Senior Advocate with Ms. Neha Kholkar and Ms. Saicha Dessai, Advocate for the Applicants.

Mr Nikhil Dhumatkar, Advocate for the Respondent (Original Appellant).

CORAM : VALMIKI MENEZES, J.

DATED : 18th FEBRUARY, 2026.

ORAL ORDER:

1. This is an application seeking enhancement of rent hitherto deposited on a monthly basis by the Respondent/original Appellant in Second Appeal No.7 of 2013.

2. The Second Appeal filed by the Respondents was admitted on 23.07.2014. The Second Appeal is directed against the Decree of eviction dated 31.05.2012 passed by the District Court at Margao by which the original Appellant has been evicted from a land admeasuring 1092 sq. metres in the city of Margao. Admittedly, the suit land is used by the original Appellant for running a fuel retail outlet for dispensing petrol, diesel and other petroleum products. It is also not in dispute that the suit property where the petroleum outlet is in the heart of the city of Margao.

3. After the Second Appeal was admitted, this Court by an Order dated 23.07.2014 had directed the Appellant, during the pendency of the Appeal, to pay monthly compensation of Rs.25,000/- to the original Plaintiff. The present application seeks enhancement of this compensation and claims that the fair

market rent which the Appellants would have to pay considering the present market conditions is Rs. 6,00,000/- per month.

4. The claim of compensation of Rs.6,00,000/-per month has been made on the following basis:

(a) The Applicant relies upon a report dated 22.12.2025 of one Mahendra S. Kakule, an Engineer, which opines the present market rent to be Rs.76,44,000/- per annum or Rs.6,37,000/- per month;

(b) The Applicant has relied upon a Deed of Sale dated 21.02.2019 of a land admeasuring 1929 sq.metres of an open land under Chalta No.87 of P.T. Sheet No.189, which is contiguous to the suit property which bears Chalta No.148 and 86 of P.T. Sheet No.189 of City Survey, Margao.

5. The application has been opposed by the Appellant on the following basis:

(a) The Appellant has relied upon a Valuation Report of one Kailas Kothavale, Engineer, which is dated 06.12.2015, which calculates the fair market value of the land as Rs.5,24,00,000/-, on which basis, the return of investment has been calculated at the rate of 6%, leading to a rent per month of Rs.2,67,540/-.

(b) The affidavit-in-reply of Territory Manager (Retail), the Appellant has stated that the monthly revenue generated from the petrol pump is Rs. 4,00,000/- per year.

SUBMISSIONS:

6. Senior Advocate Shri Kantak appearing for the Applicant has advanced the following submissions:

(I) It was submitted that the enhanced rent as fixed by this Court by Order of 23.07.2014 was Rs.25,000/- per month and since more than 10 years have elapsed, there is a clear rise in the market rents which can be charged for the suit property and it is used for that period. Learned Senior Advocate takes me through the Deed of Sale dated 04.06.2019, which is referred to in the Valuation Report and submits that if one considers the market value of the land on the sale instance for the year 2019, and takes its present market value in the year 2025, the rate per square metre of the sale instance would be Rs.76,200/- per square metre. He also takes me through the Zoning Certificate issued by the Planning Authority which certifies that the suit property is in a central commercial zone, as is the property in the sale instance.

II. He further submits that considering a conservative return on investment for the suit property, of 6% of the investment per annum, the fair market rent would work out to Rs.6,37,000/- per month.

III. Reliance was placed on the two Judgments of this Court in ***Rukhsana Khalid Ghaswala & Anr. v/s. M/s. Mahendra Builders & Ors.*** in Writ Petition No. 14241 of 2023 dated 02.01.2024 and on a Judgment dated 27.09.2024 in Writ Petition No.8537 of 2023 in the case of ***Safset Agencies Private Ltd., v/s. Riddhi Rahul Kumar Gosalia***; on the basis of these Judgments, it was submitted that the return on the investment of built-up premises or of a land, is required to be calculated at 6% of the market value of the premises or land.

7. Opposing these submissions, Mr. Nikhil Dhumatkar appearing for the Appellant has taken me through the Valuation Report submitted along with the affidavit of the Appellant. Placing reliance on a Judgment of this Court dated 01.04.2021 in Writ Petition No.805 of 2021 in the case of ***Madhukar Hiswankar v/s. Bharat Petroleum Corporation Ltd.,*** to contend that it is the Court's discretion, considering the income generated from the property of the Appellant to fix the enhanced rate. He submits that considering the income generated from the fuel station run on the suit property, the enhanced rent should not be more that Rs.2,67,000/- per month, on calculating the return on investment even at 6% of the market value of the land. According to the learned Counsel, the market value of the land on which the Appellant's petrol pump is running, is Rs.49,000/- per square metre.

8. The first consideration for deciding the enhanced rent would be the fact that the last rent was enhanced in the year 2014, where the rent fixed at Rs.25,000/- per square metre. One of the factors that would have to be considered is that the suit property is located in the heart of the City of Margao and obviously has a high commercial value. The sale instances produced by the Applicant is of a land which admeasures 1929 sq. metres which is adjacent to the suit property. This Sale Deed is of the year 2019, and if one calculates the present market rate even on a conservative enhanced rate of 6% per annum, its present market value calculated from 2019 would be Rs.14,70,00,000/- which would be roughly Rs.1 lakh more per year and its present market value would certainly work out to over Rs.1 lakh per square metre. The Valuation Report submitted by the Applicant pegs the market value of the suit property, taking an enhancement at the rate of 5% per annum on the value of the contiguous plot in the year 2019 as Rs.15,28,80,000/- or with a value of Rs.1,39,616/- per square metre.

9. In ***Rukhsana Khalid Ghaswala & Anr.*** (supra), on exhaustively considering the case law on the methodology to be adopted for calculating the market rate of a premises or land and

the manner in which enhanced rent is required to be arrived at, this Court has made the following observations in paragraphs 26, 30 and 34.

> “25. As regards the Defendant's valuation report of 30th August, 2023, the valuer has adopted three methods of valuation. Firstly, by comparable instances of leave and license in the vicinity, secondly, on the basis of reasonable return on the value of property and thirdly on the basis of letting rate method adopted by MCGM. By the first method of comparable instances, five instances were taken into consideration out of which three pertains to smaller premises admeasuring from 330.3 sq. ft. to 2000,70 sq.ft. for which the license fees ranged from Rs.110 to Rs.134 per sq.ft. per month. The valuation report notes that the smaller premises commands high rates than larger premises and the other two instances whereof large office premises admeasuring about 8,686.00 sq.ft. and 8,408.80 sq.ft. with the license fee being at the rate of 140 per sq.ft. per month. The valuation report records that these premises are corporate offices located in a far better building in a better locality and considering the difference in the condition and location and the use of the premises, the monthly compensation payable for the premises was assessed at 50% of the prevalent rate of the office premises in "Construction House" i.e. at Rs. 70/- per sq. ft.
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> 26. The second method adopted was reasonable return of the fair market value of the premises. The valuer considered the rate per square meters for the commercial premises @ Rs.3,61,500/- and rate per square meter for open/developed land @ Rs.1,64,930/-. Thereafter the difference was arrived at Rs.1,96,570/-. By applying the prescribed percentage of 15% the depreciated rate was arrived at Rs.1,94,416/-. and the depreciated rate per sq.ft. was arrived at Rs.18,062/- and with the reasonable return at 6%, the monthly compensation was assessed at Rs.90/- per sq. ft.

30. The method of instances of leave and license agreements of similar based properties cannot be adopted as both parties have not placed cogent material of comparable instances. Either the areas differ, or the location differs or condition of building differs. The letting out rate of MCGM cannot be considered as indicator of prevalent letting out rate. The Ready Reckoner rate arrived at by both the parties is the same and the only difference is the depreciation factor which is applied. As such, in my opinion, the method of return of investment on the fair market value of the property based on the Ready Reckoner rate can be adopted for the purpose of computation of the monthly compensation. Comparison of the report of 16th June, 2022 of the Plaintiffs and the report of 30th August, 2023 of the Defendant indicate that as far as the Ready Reckoner rate is concerned both the valuers have arrived at the rate without land of Rs.1,96,570/-. Thereafter the Plaintiffs have considered the depreciation factor at 0.30%. Whereas the defendants have calculated the depreciation factor at 0.15%.

By adopting this method and dividing the value by 150 times, the Plaintiffs have computed the monthly compensation at Rs.16,64,032/- whereas the Defendant No. 1 has assessed the return on investment at 3.5 % and has computed the monthly compensation at Rs.4,15,200/-. In my opinion, the return of 3.5% p.a. is not a reasonable return, whereas the rate of return of 8% p.a. is on the higher side. A return of 6% p.a. on the fair market value would be reasonable rate of return. The admitted position is that the building has been constructed in the year 1908/1915 and as such, the depreciation factor to be applied is 85%.

31. Taking into consideration the valuation report of the Plaintiff and the Defendant the rate of land is Rs.1,64,930/- per square meter and for the structure is Rs.3,61,500/-. Deducting the rate of land from the rate of the structure the rate without land is Rs.1,96,570/- per sq. mtr. which is common in both the valuation report. The Depreciation factor to be considered is the maximum depreciation of 85%

as per the valuation report of the Defendants which has not been disputed by the counsel for the parties as the age of the suit building is about 115 years. Applying the depreciation factor of 85%, the rate comes to Rs.1,64,930/- Rs 1,96,570 x 15% = Rs.1,64,930/- + Rs 29,485.50/(ie. Rs.1,94,415/- per sq. mtr

32. Considering the built up area at 1114.80 square meters the value of the property works out Rs 21,67,33,842/- (Rupees Twenty One Crores Sixty Seven Lakhs Thirty Three Thousand Eight Hundred Forty Two Only). Applying the rate of return @ 6% pa. the monthly compensation comes to Rs 10,83.669.21/-.

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34. Adopting the method of return on investment @ 6% p.a. on the fair market value of the land, the reasonable monthly compensation is computed at Rs.10,80,000/-, as a condition of stay during the pendency of the Appeal. As regards the contention about the low turnover of the Defendant, it needs to be noted that the Defendant's valuer has adopted the same method and arrived at figure of Rs.10,79,973.65/-. The Defendant's valuer has considered the area at 7201.36 sq.mtrs. as the suit premises layout consumes large areas by passages and common areas resulting in low actual usable area. For this, support is taken from MCGM's licenses granted for the guest house. The decree of eviction is passed in respect of the suit premises and the monthly compensation is to be assessed at the rate at which the premises can be let out by the landlord. For that purpose, the actual usable area cannot be the basis as the entire premises could be let out by the landlord if the tenant had vacated. The licenses granted by MCGM cannot form the basis for computing the area which could be let out. The landlord could have let out the premises to a tenant carrying on some other business utilising the entire area. The Defendant's valuation report taking into consideration the

actual usable area and applying factor of 40% for common area has no basis."

This Court has held that the method of calculating the fair market rent on the basis of instances of Leave and Licence Agreements or Rent Agreements in the vicinity is one such method, but where this is not available, the Court can adopt the method of calculating fair market rent on the basis of method of return on investment. It has further gone to appreciate the best rate at which such return should be calculated and has concluded that a rate of 3.5% per annum would be too low while a rate of 8.5% per annum would be too high and has chosen to peg the enhancement at 6% per annum on the return on investment.

10. A similar view has been taken by this Court in ***Safset Agencies Private Ltd.*** (supra), which would apply to the facts of the present case.

11. In the present case, even the Appellants have accepted that 6% of the return on investment ought to be the rate for calculation, but have disputed the market value of the land. The Valuation Report produced by the Appellant refers to a Lease Deed of a plot of land on which the Appellant has a fuel dispensing Station at a distance of 6-7kms outside the City of

Margao, located at Dicarpale which is at the periphery of the Salcete Taluka. The location of this plot is obviously not an urban area, and falls in village and cannot be considered as a comparative instance to value the rent for the suit property. The Report has been furnished by the Appellant after having full knowledge of the Sale instance relied upon by the Applicant in the Valuation Report produced by the Appellant, i.e. of a plot contiguous of the suit plot which has a value of Rs. Rs.15,28,80,000/- in the year 2019. In my opinion, therefore, I would have to consider sale instance of the year 2019 as the basis for arriving at a valuation of the present market rent that the suit plot would fetch.

12. Considering the value of the sale instance of the year 2019, the Valuation Report, considered the valuation of the suit plot based on the value of the sale instance in the year 2019 and pegged the same at Rs.15,28,80,000/- for the year 2019. On the basis of the aforesaid market value of the suit plot, the value of the suit plot would roughly work out to Rs.1,40,000/- per square metre in the year 2025. This, in my opinion, would be the correct basis for calculation and I accept the same. On the current market value of the suit property, I would calculate the return on investment at

the rate of 5% per annum, which works out to Rs.76,44,000/- per annum and therefore Rs.6,37,000/- per month. However, considering the claim of the Appellant as to the monthly revenue generated from the property, and in order that the rent payable per month should not be oppressive, I round off the rent payable by the Appellant to a sum at Rs.5,00,000/- per month.

13. Consequently, I allow the application and fix the monthly rent payable by the Appellant at Rs.5,00,000/- per month. The Applicants have claimed the enhanced rent from 23.07.2014. However, there is no material placed along with the application to decide the rent claimed for all those years and the only material before me is the sale instance of the year 2019. Accordingly, I direct that the Appellants deposit the rent at the rate of Rs.5,00,000/- per month, commencing from 01.01.2020. The arrears of the rent at the rate of Rs.5,00,000/- per month shall be deposited within a period of 60 days from today, i.e. the arrears of rent at the rate of Rs.5,00,000/- per month from 01.01.2020 to 01.01.2026, and shall be deposited thereafter every quarter at the aforementioned rate. The Respondent/original Appellant shall deposit the monthly

compensation of Rs. 5,00,000/- fixed by this Court along with GST at the rates as may be applicable.

14. At this stage, the learned Advocate for the Applicant submits that the enhanced rent at the rate of Rs.25,000/- per month under Order of this Court dated 23.07.2014 has been lying in the Registry of this Court for all those years, and necessary orders be passed to permit the Applicant to withdraw the same. Considering that the enhanced rent is otherwise due to the Applicant, given that the Appellant has been occupying the suit property during the pendency of the Appeal, the Registry of this Court is directed to make the payment of all the rents deposited by the Appellants from first date of deposit to till date, at the rate of Rs.25,000/- per month directly into the account of the Applicant, details of which are given below:

> "Nanu Engineers Private Limited,
> HDFC Bank, Margao Branch,
> Current Account No.: 50200031600330
> IFSC No.: HDFC0000037."

In addition, on the Appellant depositing the enhanced rent arrears per month from 01.01.2020 till 01.01.2026. This amount shall also be remitted by the Registry to the account of the

Applicant, the details of which are as mentioned above. The Application stands disposed of.

VALMIKI MENEZES, J.