

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14909 OF 2024
IN
WRIT PETITION NO. 739 OF 2004

Gajanan Moreshwar Omkar (since deceased) ...Applicants
through legal heirs and ors.

IN THE MATTER BETWEEN
Kusum Sudhakar Inamdar

...Petitioner

Versus

Gajanan Moreshwar Omkar (since deceased)
through legal heirs and ors.

...Respondents

SNEHA
NITIN
CHAVAN

Digitally signed
by SNEHA
NITIN CHAVAN
Date:
2026.01.27
15:37:13 +0530

WITH
INTERIM APPLICATION (ST) NO. 1063 OF 2026
IN
WRIT PETITION NO. 739 OF 2004

Kusum Sudhakar Inamdar

...Applicants

Versus

Gajanan Moreshwar Omkar (since deceased)
through legal heirs and ors.

...Respondents

Ms. Sangeeta Shrotri Vaidya for the Applicant in IA/14909/2024 and
original Respondent.

Mr. Anil Patil for Applicant in IAST/1063/2026 and for original
Petitioner.

CORAM : M.M. SATHAYE, J.
DATE : 27th JANUARY, 2026

P.C. :

1. IA/14909/2024 is filed by the landlord for fixing interim compensation. IAST/1063/2026 is filed by the tenant for restoration of interim stay.
2. On 13.11.2025, following order was passed :

“1. Heard learned counsel for the Respondents/landlord who have taken out this Application for interim compensation, considering that the decree of eviction is stayed and the Petitioner/tenant is occupying the suit premises. In paragraph 8 of the application, it is stated that even the contractual rent of Rs.375/- per month has not been deposited regularly by the tenant.

2. Learned counsel holding for Mr. Dhruvad Patil, appearing for the original Petitioner/Tenant informed that the Petitioner has taken away case papers for engaging another lawyer. He seeks discharge from the case.

3. Stand over to 28.11.2025.

4. Advocate for the Respondents to give notice of next date to the Petitioner along with copy of this order.

5. It is clarified that if the Petitioner does not appear on the next date, and explain as to why the rent is not deposited during the period of pendency of the Petition, the interim stay shall be vacated.”

3. On 28.11.2025, after noting above order, following order was passed :

“ xxx

2. Learned Counsel for the Applicant (Respondent in Writ Petition) has placed on record an affidavit of service with postal tracking report, indicating that the notice of today's hearing along with earlier order copy is served upon the Petitioner in Writ Petition. An affidavit of service is taken on record and marked 'X' for identification.

3. In view of earlier order and non-appearance for the Petitioner despite specific notice, interim relief granted earlier in the Writ Petition, stands vacated.”

3. Today, learned Counsel for the Petitioner/Tenant relies upon the order dated 12.01.2024 passed in **IA/15729/2023** in the case of **Brijbhushan Chandrabali Shukla V/s. Mahendra Yadav s/o. Lavjari S. Yadav** to contend that when the Petition itself is ripe for hearing and when the application for interim compensation is filed by landlord belatedly, interim compensation may not be fixed.

4. Learned Counsel for the landlord is ready to proceed with the Writ Petition on merits. Even the Court is ready to take up the Writ Petition for final hearing. However, learned Counsel Mr. Patil for the tenant seeks time till 10.02.2026 for arguing the petition finally.

5. In the circumstances, it is clear that though a stand is taken by the tenant that belated application for interim compensation should not be considered, the tenant is not ready to proceed with the petition on merits when both, the Court as well as the other side is ready. This reflects adversely on the intention of the tenant, which is to prolong the matter.

6. In this circumstances, stand over to 10.02.2026 for final disposal along with interim applications. If the petition is not proceeded on merits by the tenant on next date, it shall be treated as 'non prosecution' and appropriate orders shall be passed.

7. It is clarified that interim stay has been already vacated and Executing Court is at liberty to proceed with the execution in accordance with law.

(M.M. SATHAYE, J.)