

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5207 OF 2025

Gool Rusi Vatcha

..... PETITIONER

: **VERSUS** :

Dilip Anant Chavan & Anr.

.... RESPONDENTS

Mr. Nirman Sharma, *a/w. Mr. Deeshank Doshi and Ms. Uma Sharma, for the Petitioners.*

CORAM : SANDEEP V. MARNE, J.

DATED : 7 APRIL, 2026.

P.C. :

1) The petition challenges order dated 9 November 2022 passed by the Appellate Bench of the Small Causes Court by which Petitioner's application for withdrawal of amount of interim compensation deposited by the Defendant-tenants in pursuance of order dated 1 November 2018 is rejected.

2) I have heard Mr. Sharma, the learned counsel appearing for the Petitioner. Respondents are privately served but have not shown any interest in appearing before the Court. This is possibly on account of the fact that Respondents have delivered possession of the suit property and are possibly no longer interested in the present proceedings.

3) The suit of the Petitioner/Plaintiff was decreed by the Trial Court on 3 May 2016. As a pre-condition for stay to the execution of decree, the Appellate Court directed deposit of interim compensation of Rs.10,000/- per month from the date of the decree till disposal of the Appeal vide order dated 1 November 2018. The Appeal has been finally dismissed on 22 March 2022. I

therefore do not see any reason why the Petitioner cannot withdraw the amount of interim compensation deposited in pursuance of order dated 1 November 2018. It is well settled position of law that interim compensation is required to be deposited by a tenant who has suffered decree of eviction as a pre-condition for grant of stay to eviction decree. The possession of tenant becomes unlawful with passage of eviction decree. Interim compensation is to be decided to compensate the landlord who is deprived of possession of the premises due to grant of stay to execution of decree. If the Appeal is allowed and eviction decree is set aside, the deposited amount needs to be refunded to the tenant. Conversely, if the Appeal is dismissed, the deposited amount has to be paid to the landlord.

4) In that view of the matter, the interim compensation deposited for retention of possession of the premises by the tenant must be necessarily paid over to the landlord. The Appellate Court has adopted a hyper-technical approach in rejecting the Petitioner's application.

5) The petition accordingly succeeds and I proceed to pass the following order :

(i) The order dated 9 November 2022 passed by the Appellate Bench of the Small Causes Court is set aside.

(ii) The entire amount deposited by the Respondents in terms of order dated 1 November 2018 shall be paid over to the Petitioner alongwith accrued interest.

6) Writ Petition is allowed in the above terms and disposed of.

[SANDEEP V. MARNE, J.]

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