

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13498 OF 2025

Amin Yakub Habib

...Petitioner

V/s.

Izzat Anwar Shivani And Ors.

...Respondents

Mr. Niranjan Mogre *for Petitioner.*

Mr. Marazban K. Irani *i/b Ms. Niyati E. and M. I Chowdhary for Respondent No. 1.*

CORAM: SANDEEP V. MARNE, J.

DATED: 6 APRIL 2026.

P.C.:

1) The Petition challenges order dated 17 June 2025 passed by the District Judge, Pune partly allowing Review Application No. 1 of 2025 and reducing the amount of interim compensation from Rs. 30,000/- per month to Rs. 15,000/- per month. The Petitioner also challenges order dated 18 October 2024 by which the quantum of interim compensation is fixed by the Appellate Court at a rate of Rs. 30,000/-.

2) I have heard Mr. Mogre, the learned counsel appearing for the Petitioner and Mr. Irani, the learned counsel appearing for Respondent No. 1.

3) By order dated 18 October 2024 the learned District Court has determined the amount of compensation of Rs. 30,000/- per month

payable from the date of eviction decree which is passed on 6 May 2022. The Respondents/Defendants have suffered decree for eviction on the ground of bonafide requirement, permanent alterations and additions in the suit property and nuisance/annoyance. The Respondents/Defendants sought review of order dated 18 October 2024 by filing Review Application No. 1 of 2025 on 2 January 2025. Partly allowing the Review Application, the learned District Judge has proceeded to reduce the amount compensation to Rs. 15,000/- per month.

4) In my view, the District Court could not have reviewed order dated 18 October 2024 in absence of any of the recognized grounds being made out by the Respondents/Defendants. Perusal of the order dated 17 June 2025 would indicate that the learned District Judge has sat on Appeal over its own decision dated 18 October 2024 and has proceeded to alter the amount of interim compensation. There was no error apparent on face of record in the order dated 18 October 2024. In that view of the matter exercise of review jurisdiction by the District Court is clearly misconceived.

5) Even on merits, order dated 17 June 2025 cannot be sustained. The only reason for reducing the amount of interim compensation from Rs. 30,000/- to Rs. 15,000/- is income tax returns of the Respondents/Defendants. In my view, the income generated by the Respondents/Defendants from the suit premises is an irrelevant factor for deciding the quantum of interim compensation. In view of the judgment of the Apex Court in *M/s. Atma Ram Properties (P) Ltd. V/s.*

M/s. Federal Motors Pvt. Ltd.¹, the interim compensation needs to be commensurate with the monthly rental return which can be generated from the suit premises. Interim compensation represents the amount of loss suffered by the landlord because of retention of premises by the tenant during pendency of Appeal. The Appellate Court has thus applied an erroneous yardstick for reducing the quantum of monthly compensation the order dated 17 June 2025 is thus unsustainable on the counts both of the erroneous exercise of jurisdiction as well as on merits.

6) Coming to the correctness of order dated 18 October 2024, it is seen that the Petitioner did not contemporaneously challenge the same and depended on out come of Review Application No. 1 of 2025 filed by the Defendant No. 1-Tenant. Even otherwise it is the case of the Petitioner that the market value of the suit premises is in the range of Rs. 90,00,000/- as per the ready reckoner. If that is the case, the monthly returns which the suit property is otherwise likely to generate considering 5/6 % return would be in the range of Rs. 40,000 to 45,000/- thousand per month. It is seen that the suit premises are located in the very old building. Considering, this position, I do not find any reason to interfere in the quantum of interim compensation of Rs. 30,000/- per month determined by the Appellate Court in the order dated 18 October 2024.

7) The Petition accordingly partly succeeds. Order dated 17 June 2025 passed by the Appellate Court is set aside and the order dated 18 October 2024 is confirmed.

1 (2005) 1 SCC 705

8) Writ Petition is partly allowed in above terms and **disposed of.**

[SANDEEP V. MARNE, J.]