

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 17564 OF 2025

Rupchand Hiraji Parmar

.....PETITIONER

: Versus :

Dr. Narendra Ramsingh Sisodiya

(Since deceased) through his Legal Heirs

....RESPONDENTS

Mr. Piyush Toshnival *with Mr. Chetan Oswal for the Petitioner.*

Mr. Padmanabh D. Pise *with Ms. Sejal A. Hariyan i/b. P. Padmanabh & Associates, for Respondent No.1.*

Ms. Sulbha D. Chipade, *AGP for State.*

CORAM : SANDEEP V. MARNE, J.

DATED : 9 APRIL 2026.

P.C :

1) The challenge in the petition is to the order dated 9 May 2024 passed by the District Judge, Vadgaon, Maval, Pune rejecting application at Exh.17 filed by the Petitioner for bringing on record legal heirs of the Plaintiff-landlord. The application was filed after delay of 413 days and the Appellate Court has refused to condone the delay.

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

3) Petitioner is a Defendant in the Suit and has suffered a decree of eviction on 25 August 2020. Petitioner has filed Regular Civil Appeal

No.149 of 2022 in the Court of District Judge, Vadgaon, Maval, Pune. During pendency of the Appeal, Plaintiff-landlord passed away on 25 September 2022. By a pursis filed on 23 November 2022, the advocate for the landlord communicated names of 3 legal heirs for being brought on record. Acting negligently, the Petitioner failed to take steps for bringing on record, legal heirs of the deceased Plaintiff. The application at Exh.17 was apparently filed on 23 April 2024. However, negligence on the part of the Petitioner is apparent from the fact that though names of three legal heirs were communicated vide Praceipe dated 23 November 2022, the Petitioner filed application for bringing on record only one out of the three legal heirs. Since the Appeal has been filed by the Petitioner tenant challenging the eviction decree, it is appropriate that an opportunity is granted to the Petitioner to prosecute the Appeal on merits. At the same time, the Petitioner has been extremely negligent in prosecuting the Appeal, as observed above. Petitioner is occupying the suit premises comprising of a Shop situated at prominent location at Lonavala. In my view, therefore it would be appropriate to put the condition of deposit of interim compensation from date of decree as a pre-condition for restoration of the Appeal which has abated on account of failure to bring legal heirs of deceased Plaintiff on record. Considering the location of the suit premises, in my view, interim compensation needs to be determined @ Rs.15,000/- per month. Such a course of action would also prevent another round of litigation between the parties towards fixation of interim compensation by the Appellate Court by following the principles in Apex Court judgment in Atma Ram Properties (P.) Ltd. Versus. Federal Motors (P.) Ltd.¹ Additionally, the Petitioner needs to be saddled with some costs for being negligent in prosecuting the application at Exh.17.

- 4) I accordingly proceed to pass the following order :
- (i) The order dated 9 May 2022 passed by the Appellate Court is set aside.
 - (ii) All the three legal heirs of deceased Plaintiff are permitted to be brought on record. Necessary amendment to

1 (2005) 1 SCC 705

be carried out within a period of 4 weeks. The Appeal stands restored on the file of the Appellate Court, subject to the deposits being made within the stipulated time.

(ii) The Petitioner shall deposit interim compensation of Rs.15,000/- per month from the date of decree i.e. 25 August 2020 and shall continue to deposit the same throughout the pendency of the Appeal. The arrears of rent from January 2020 till May 2026 shall be deposited by the Petitioner on/or before 31 May 2026. The Petitioner shall thereafter continue depositing interim compensation from June 2026 every month before the Appellate Court.

(iii) Additionally, the Petitioner shall pay to Respondents costs of Rs.10,000/- by depositing the same before the Appellate Court within a period of 4 weeks. Respondent No.1 would be at liberty to withdraw the deposited amount of costs.

(iv) In the event the Petitioner commits a default in deposit of arrears of interim compensation by 31 May 2026 or in depositing the amount of costs within 4 weeks, the Appeal shall continue to remain abated.

5) With the above directions, the petition is partly **allowed and disposed of.**

[SANDEEP V. MARNE, J.]

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