

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2339 OF 2026

Kiran Nagindas Garodia

... *Petitioner*

V/s.

Kavita Gulabraaj Kurani & Ors.

... *Respondents*

Mr. Rubin Vakil with Ms. Sonam Mhatre, Mr. Darshil Thakkar and Mr. Dipesh Palwankar i/b. Dhaval Vussonji & Associates, for the Petitioner.
Mr. Tanvir Shaikh, for the Respondents.

CORAM: SANDEEP V. MARNE, J.

DATED: 29 April 2026.

P.C.:

1) The Petitioner is aggrieved by order dated 3 December 2024 passed by the Appellate Bench of the Small Causes Court permitting the plaintiffs to withdraw the deposited amount of interim compensation alongwith interest.

2) It appears that during pendency of the Appeal, the Petitioner/Defendant was directed to deposit interim compensation of Rs.40,000/- per month as a pre-condition for grant of stay to the eviction decree which amount was reduced to Rs.30,000/- per month by this Court

by order dated 21 January 2020. The Appeal came to be dismissed on 20 June 2024. Though Petitioner filed Civil Revision Application challenging Appellate Court's decree dated 20 June 2024, it appears that the copy of the same was never served on the plaintiff till he moved MARJI Application No. 273/2024 for withdrawal of the amount of interim compensation. The Appellate Court was thus not made aware of filing of Revision Application and accordingly proceeded to pass order dated 3 June 2024 permitting Plaintiff to withdraw the deposited amount of interim compensation alongwith accrued interest.

3) The Civil Revision Application was thereafter moved on 9 December 2025 in which stay on execution of the decree was granted on condition of deposit of arrears of interim compensation of Rs.5,40,000/- upto 30 November 2025 and also subject to the Petitioner depositing interim compensation every month during pendency of the Revision Application. The position which stands is that the interim compensation upto the date of decree of the Appellate Court (20 June 2024) is withdrawn by the Plaintiff whereas the interim compensation post the decree of the Appellate Court remains deposited.

4) Considering the fact that the Petitioner did not take immediate steps for stay of decree of the Appellate Court and has filed the present petition after a period of one year of passing of impugned order dated 3 December 2024, I am not inclined to interfere in the order and direct Plaintiff to bring back the withdrawn amount. Instead, the plaintiff can be directed to file undertaking to bring back the withdrawn amount alongwith simple interest @ 6% p.a. in the event of Applicant succeeding in the Civil Revision Application No. 25/2025.

5) The Writ Petition is accordingly **disposed of** with direction to the Respondent-Plaintiff to file an undertaking in this Court within 2 weeks for bringing back the entire withdrawn amount with interest @ 6% p.a. in the event of Petitioner succeeding in the Civil Revision Application No. 25/2025.

[SANDEEP V. MARNE, J.]

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