



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.244 OF 2026

National Small Industries Corporation Limited

....Applicant

V/S

M/s. Gita Corporation

....Respondent

Mr. Atul Damle, Senior Advocate with Mr. Vishal Talsania i/b
Mr. Kunal Chheda *for the Applicant.*

Mr. Prasad S. Dani, Senior Advocate with Mr. Yash K. Agrawal *for the
Respondent.*

**CORAM : SANDEEP V. MARNE, J.
RESERVED ON: 30 APRIL 2026.
PRONOUNCED ON: 7 MAY 2026.**

J U D G M E N T :

1. This Revision Application is filed by the Applicant challenging the judgment and order dated 27 February 2026 passed by Appellate Bench of Small Causes Court confirming the quantum of mesne profits fixed by the Trial Court vide order dated 7 March 2022, but modifying the rate of interest from 9% to 6% per annum. By order dated 7 March 2022 passed in Mesne Profit Application No.648 of 2015, the Trial Court had fixed mesne profits in respect of the suit premises at the rate of Rs.12,14,660/- per month for the period from 1 June 2010 to 16 November 2014 and had awarded 9% interest thereon. The Appellate Court has maintained the amount of mesne profits, but has only granted partial solace to the Applicant by reducing the amount of interest to 6% per annum.

2. Applicant-National Small Industries Corporation Limited (**NSICL**) is a Government of India Enterprises and a Public Sector Undertaking. The Applicant was inducted as a monthly tenant by the Respondent in respect of a commercial storage godown admeasuring 4,256 square feet (built-up area) situated on ground floor of the building named Gita Building, Pandita Ramabai Road, Gamdevi, Mumbai-400 007 (**suit premises**). The monthly rent in respect of the suit premises was Rs.1,017/-. By notice dated 12 April 2010, tenancy of the Applicant was terminated as Applicant became an exempted entity under Section 3(1) (b) of the Maharashtra Rent Control Act, 1999 (**MRC Act**). On 26 July 2010, Respondent filed T.E. & R. Suit No.129/170 of 2010 seeking recovery of possession of the suit premises and for inquiry into mesne profits. The Applicant was ready and willing to handover possession of the suit premises to the Respondent on account of the premises being in the state of severe disrepair. Applicant alleged that the concrete roof of the godown had collapsed due to drilling done by the Respondent and that Respondent had erected sheds encroaching upon both the entrances of the godown. Applicant therefore filed Application under Section 29 of the MRC Act on 30 July 2014 for removal of the sheds. The Application was resisted by the Respondent. Ultimately Applicant handed over possession of the suit premises to the Respondent on 16 November 2014. By judgment and order dated 13 February 2015, the Trial Court partly decreed T.E. & R. Suit No.129/170 of 2010 noting that possession was already restored to the Respondent. The Trial Court therefore directed conduct of separate inquiry into mesne profits under Order XX Rule 12 of the Code of Civil Procedure, 1908 (**the Code**) for the period from 1 June 2010 to 16 November 2014. Accordingly, Respondent

filed Mesne Profit Application No. 648 of 2015 on 8 September 2015. The Application was opposed by the Applicant by filing Affidavit-in-Reply. Parties led evidence in support of their respective claims. Respondent examined its constituted attorney as well as Valuer Mr. Vinit R. Shah. Respondent also examined witness from the Assessment Department of Municipal Corporation of Greater Mumbai (MCGM). Applicant led evidence of its Manager (Law).

3. After considering pleadings, documentary and oral evidence, the Trial Court proceeded to allow the Application of the Respondent and directed Applicant to pay sum of Rs.12,14,660/- per month towards mesne profits during the period from 1 June 2010 to 16 November 2014 alongwith interest at the rate of 9% per annum.

4. Applicant filed Miscellaneous Appeal No.44 of 2024 before Appellate Bench of Small Causes Court. Applicant carried out valuation through Krishna Consultants, who submitted report dated 22 July 2025 assessing fair market rent using Government ready reckoner rates at Rs.1,00,000/- per month. The Appellate Bench of Small Causes Court passed order dated 27 February 2026 maintaining the quantum of mesne profits at Rs.12,14,660/-. However, the rate of interest is reduced by the Appellate Court from 9% to 6%. Aggrieved by the orders passed by the Trial and the Appellate Courts, the Applicant has filed the present Revision Application.

5. I have heard Mr. Damle, the learned Senior Advocate appearing for the Applicant, who submits that the Trial and the Appellate Courts

have erroneously fixed exorbitantly high quantum of mesne profits in favour of the Respondent. That possession of the suit premises was handed over by Applicant to the Respondent on account of unusable condition where the roof had virtually given up and entry to the godown was also blocked on account of sheds erected by the Respondent. He submits that the suit premises are situated on rear portion of the building without having any road frontage. That the Trial Court erroneously took into consideration Valuation Report of Respondent's Valuer which has considered rental returns in respect of shops having road frontage and in plush areas such as Napean Sea Road, etc. That the Appellate Court has totally ignored the valuation report produced by the Applicant in accordance with which the rent in respect of the suit premises would have only been in the range of Rs.1,00,000/- per month. He submits that there is absolutely no basis for fixation of mesne profits at the rate of Rs.12,14,660/-. That Applicant is a Government of India enterprises and cannot be saddled with liability to pay exorbitant mesne profits in respect of premises which were rendered useless and possession of which was voluntarily handover to the Respondent.

6. *Per contra*, Mr. Dani, the learned Senior Advocate appearing for the Respondent opposes the Application. He submits that no interference is warranted in concurrent findings recorded by the Trial and the Appellate Courts. That both the Courts have relied upon evidence in the form of valuation report produced and proved by the Respondent. That Applicant has failed to produce any documentary evidence. That Applicant did not file Application under Order XLI Rule 27 of the Code and produced the report of its valuer by way of mere

pursis. That the said material is rightly ignored by the Appellate Court. That the Applicant did not doubt the correctness of Respondent's valuation report. He submits that though Respondent is entitled to escalation in the rate in respect of period of four years, both the Courts have fixed uniform rate for the entire period of four years. That Appellate Court has already reduced the rate of interest from 9% to 6% per annum. That considering the overall view, no interference is warranted in plausible findings recorded by the Trial and the Appellate Courts. He accordingly prays for dismissal of the Revision Application.

7. Rival contentions raised on behalf of the parties now fall for my consideration.

8. Applicant was inducted as a monthly tenant in respect of godown premises admeasuring 4,256 square feet (built up area) situated on ground floor of the building. Applicant is a Government of India enterprises who was apparently using a suit premises for storing machinery. The possession of the suit premises was handed over by Applicant to the Respondent on 16 November 2014. Therefore, the period during which mesne profits are payable is from 1 June 2010 to 16 November 2014. It is the case of Applicant that suit premises were required to be vacated on account of the fact that its roof was damaged and the access was blocked due to encroachments by the Respondent. Applicant has placed on record copy of its Application filed under Section 29 of the MRC Act (Exhibit 20 in TE & R Suit No.129 of 2010). The Application was filed with the following pleadings:

“4. The Defendants state that recently when one of the Officials of the Defendants visited the suit premises it was noticed that the suit premises is

damaged. The concrete roof has collapsed due to drilling work done by the Plaintiff and thereby the Defendants Machines and other materials are damaged. Hereto annexed are Photographs of the suit premises which clearly shows that the entry to the suit premises is encroached upon by erecting the tin sheds. The entrance of both the sides of the suit premises godown is encroached by the Plaintiffs by erecting temporary tin shades without permission from the Brihan Mumbai Municipal Corporation. Due to erection of tin sheds there is little space for removing the materials from the godown with the result it is not possible for the Defendant to hand over vacant and peaceful possession of the suit premises to the Plaintiff.”

9. The prayers in Application were as under:

- (a) that the Hon'ble Court be pleased to direct the Plaintiffs to remove the tin sheds to enable to the Defendants to enjoy ingress egress easement rights related to the suit premises.
- (b) that the Hon'ble Court be pleased to grant ad-interim relief in terms of prayer (a)
- (c) that costs of the Application be provided for
- (d) that the Hon'ble Court be pleased to grant any other just and equitable relief as the nature circumstances of the case may require.

10. The Application was filed on 30 July 2014. Along with the Application, photographs were produced showing obstruction to the entrance to the premises. The Application however remained undecided on account of the fact that the Applicant gave up possession of the suit premises three months later on 16 November 2014.

11. Before the Trial Court, Respondent produced valuation report of V.R. Shah which indicated that the rental return in respect of the suit premises were in the range of Rs.12,14,660/-. It appears that Applicant did not produce report of any valuer. The Trial Court has accordingly proceeded to accept the entire amount of Rs.12,14,660/- suggested by the valuer and has awarded the same as mesne profits.

12. I have gone through the report of the valuer V.R. Shah. The valuer has taken into consideration four comparable instances which are as under:

Sr. No	LOCATION	B.U. AREA	LEAVE AND LICENSE DETAILS	LICENSOR/ LICENSEE	LICENSE FEES	REGN. DETAILS
1	GALA NOS. 5 & 6 GROUND FLOOR, C.S. NO. 135/5 OF GIRGAON DIVISION 20-22 MAMA PARMANAND MARG, OPERA HOUSE MUMBAI 400 004 (GALAS NOS.5 &6)	780.00 SQ.FT. 72.50 SQ.M.	60 MONTHS LICENSE FEES RS.265000/- P.M. AND DEPOSIT OF RS.1590000/- AT.....INTE REST	DR. N.M. VORA CHARITABLE TRUST TO AIRCEL LTD.	RS. 3655 PER. SQ. P.M. EXCLUDING INTERST ON DEPOSIT OF RS.1590000.00	<u>02.01.2009</u> BBE3/2210/09
2	SHOP NO.7 C.S. NO. 456/39 OF MALBAR CUMBALLA MATRU ASHISH, 39 NAPEAN SEA ROAD	400.00 SQ.FT. 37.17 SQ.M.	LICENSE FEES RS.130000.00 P.M. + DEPOSIT OF RS.500000.00	ZAVERI CHAND TO PRASHANT CATERERS	RS. 3497.44 PER. SQ. P.M. EXCLUDING INTERST ON DEPOSIT OF RS.500000.00	<u>24.04.2009</u> BBE2/5184/09
3	UNIT NO.4 FILM CENTRE, GROUND FLOOR, TARDEO, MUMBAI	185.87 SQ.M.	36 MONTHS LICENSE FEES RS. 345000/- P.M. AND DEPOSIT OF RS.1800000.00	RAJIV PATEL TO VFS GLOBAL PVT. LTD.	RS. 1865.13 PER. SQ. P.M. EXCLUDING INTERST ON DEPOSIT OF RS.1800000.00	<u>17.04.2008</u> BBE2/4351/08
4	SHOP NO. 4 C.S.NO. 108, GROUND FLOOR, HANUMAN TERRACE, TARA TEMPLE LANE, D.B.MARG, MUMBAI	220.00 SQ.FT.	11 MONTHS LICENSE FEES RS. 50000.00/- P.M. AND DEPOSIT OF RS. 250000.00	SULOCHANA VASANT DEVARKAR TO MEDIAMON INFOTECH PVT. LTD.	RS. 2447.18 PER. SQ. P.M. + INTERST ON DEPOSIT OF RS.250000.00	<u>16.07.2008</u> BBE224410/08

13. The valuer was supposed to examine comparable instances of 'godown premises' in the locality. However, it appears that he took into consideration prime commercial offices, showrooms and shops situated

at plush locations like Napean Sea Road, Opera House and Tardeo. None of the four instances compared by the Valuer pertains to godown premises. There is no dispute to the position that the suit premises did not have any road frontage and were constructed as a backside extension to Gita Building. Plaintiff's Valuer however took into consideration rents payable in respect of shops and showrooms at Napean Sea Road, Opera House and Tardeo. The first comparable instance of license in favour of Aircel Ltd. (mobile service operator) at Opera House is in respect of Shops with license fees of Rs. 3655 per sq. meter per month. The second instance of Shop No. 7 at Napean Sea Road with license fees of Rs. 3497.44 per sq. metre per month is again incomparable with the godown occupied by the Applicant without a road frontage. The third comparable instance of Unit No.4, Film Centre, Tardeo is in respect of an 'office' operated by VFS Global Pvt. Ltd. (possibly for processing visas), whereas the suit premises were used by the Applicant as godown for storing machinery. The license fees for VFS Global office premises were still on lower side at Rs.1,856.13/- per square meter per month as compared to mesne profits of Rs.3,000/- per square meter per month suggested for the suit premises by the Valuer. The fourth instance of Shop No. 4 is at Lamington Road (famous for computer related shops and showrooms) which was licensed to Mediaman Infotech Pvt. Ltd. at license fees of Rs. 2447.18/- per sq meter per month, which is lesser than the rate of Rs. 3000/- fixed by the Trial Court.

14. Thus, even though the comparable instances indicated in the valuer's report are not of much relevance for determining mesne profits in respect of the suit premises, the license fees in respect of two of the

comparable instances was lower (Rs.1,856.13/- and Rs. 2447.18/-) than the one recommended by the Valuer for suit premises of Rs.3,000/-.

15. The Plaintiff's Valuer has erroneously indicated in the report that the comparable instances were in respect of 'similar premises.' The Valuer has observed in his report as under:

"We have determined Mesne Profit of the GODOWN after comparing with rents of similar premises in comparable localities (Annex-E) and adjusting for factors such as size, shape, height of premises, location, situation, location on road frontage/rear side, specifications, age, residual life, tenure, potential uses, provision for immediate repairs and renovation with amenities, market conditions, access to the premises by rail and road facilities etc.

The GODOWN has double floor height that can increase another 100% B.U. area by putting up a slab between plinth trusses.

The disadvantage of GODOWN away from main road is compensated by double floor height of the GODOWN.

Considering above we have determined the Mesne Profit of the GODOWN at Rs.3000.00 per sq.m.p.m net (excluding taxes and all outgoing) with interest from 12-4-2010 till vacant possession handed over to Owners on 16-11-2014 (Annex-F) and also we have provided for interest on capital value of Rs.1200000.00 (Rupees Twelve lacs only) at 10% interest for repairs, renovation, amenities etc. in GODOWN.

CALCULATIONS:	
Net computation rent p.m. excluding interest and outgoing for 408.22 sq.m. @ Rs.3000.00 per sq.m.p.m.	Rs.12,24,660
Deduct: Interest of Rs.10000.00 p.m. for repairs, renovation etc.	Rs. 10,000.00
Final	Rs.12,14,660

(emphasis added)

16. The Statement in the Valuer's report that rents of 'similar premises' in comparable localities are considered is far from truth. Neither the compared premises are of similar nature nor they are in comparable localities. How the rent payable in respect of shop located at Napean Sea Road can be compared with godown at Gamdevi is difficult to comprehend.

17. Further absurdity in the valuation report is clear from the fact that the Valuer has 'adjusted' the negative factors in the suit premises with the possibility of increasing the usable area by putting a slab in the double heightened suit premises. He has considered the fact that godown has double height that can increase by another 100% built up area by putting up slab between plinth and trusses. The valuer has accordingly considered that the disadvantage of godown's location away from main road is compensated by its double floor height. There is nothing on record to indicate that the alleged double height of the godown is actually used by putting a slab between plinth and trusses. As per Section 2(12) of Code, mesne profits of property mean those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom. The report is thus prepared on imaginary basis, which ought to have been discarded by the Trial and the Appellate Courts.

18. The report relied upon by the Respondent was thus full of errors and Trial and Appellate Courts have unfortunately failed to notice such blatant errors in the report. They have blindly accepted the report without noticing self-contradictions in the same. Even if the report is taken as proved, the contents therein are self-contradictory and mutually destructive. It was therefore dangerous for Trial and Appellate Courts to have relied upon such a valuation report.

19. Even otherwise the rate of Rs.3,000/- per square meter per month fixed for a godown suggested by the Respondent's valuer, which works out roughly Rs.285/- per square feet is otherwise exorbitant. He suggested monthly rental potential of Rs.12,14,660/- per month for

godown admeasuring 4,256 square feet which works out to Rs.285/- per square feet. It is otherwise incomprehensible that a godown at Gamdevi without road frontage can fetch monthly rental return of Rs.285/- per square feet. It is unfortunate that the Trial and the Appellate Courts have proceeded to ignore glaring errors in the report of the Respondent's valuer.

20. Thus, the Trial and the Appellate Courts have exercised the jurisdiction with material irregularity warranting inference in exercise of revisional jurisdiction by this Court.

21. Applicant also has to blame itself for not producing any valuation report before the Trial Court. It attempted to produce report of its valuer by filing a *pursis* before the Appellate Court on 24 November 2025. However, it did not file Application for leading additional evidence under Order XLI Rule 27 of the Code. Applicant's valuer had in fact considered ready reckoner rates applicable to the godown for the years 2010, 2015 and 2025. The valuer also took into consideration alleged comparable sale instances and thereafter considered rate of Rs.1,00,000/- per square feet for the years 2010 and Rs.1,45,000/- per square feet for the year 2015 by applying 4% rental returns. The Applicant's valuer suggested monthly rental potential of Rs.1,00,000/- per square meter for the year 2010 and Rs.1,45,000/- per square meter for the year 2015. However, Applicant's valuer has considered the rate of Rs.1,00,000/- for the year 2010 and Rs.1,45,000/- for the year 2015 on the basis of alleged comparable sale instances by applying 80% value of alleged actual sales in respect of shops. However, since the report is not proved, it is dangerous to rely on the same.

22. This Court is thus faced with the situation where the Respondent's valuer's report is found to be full of glaring errors and contradictions. On the other hand, Applicant has failed to produce valuation report before Trial Court and merely filed a report of valuer before the Appellate Court without leading evidence. In ordinary circumstances, this Court would have been justified in remanding back the proceedings to the Trial Court for conduct of fresh inquiry into mesne profits. However, it is seen that parties have been litigating on the issue of mesne profits for the last 11 long years. The period during which mesne profits are payable is also relatively insignificant (little over four years). In that view of the matter remanding the proceedings to the Trial Court would lead to another round of lengthy litigation between the parties. Therefore, with a view to shorten the length of litigation, I deem it appropriate to fix reasonable quantum of mesne profits by taking into consideration the Ready Reckoner Value indicated in the valuation report relied on by the Applicant.

23. The suit premises admeasure 408.22 square meters. Accordingly, the value of the premises in the year 2010 would be Rs.10,26,10,189/-. Similarly, the value in the year 2015 would be Rs.17,56,97,888/-. Since the mesne profits are payable for the period 1 June 2010 to 16 November 2014. I deem it appropriate to consider median value of the suit premises at Rs. 14 crores. By applying 5% rental return in respect of godown premises, the annual rental return would be to the tune of Rs.70,00,000/- and the monthly rental return would be in the range of Rs.5,83,333/-. I accordingly deem it appropriate to fix mesne profits in

respect of the period from 1 June 2010 to 16 November 2014 at Rs.5,80,000/- per month.

24. The above exercise would avoid another round of lengthy litigation between the parties. This would also ensure that Respondent would earn some returns in respect of the suit premises, which are higher than monthly rent of Rs.1,017/- paid by the Applicant. Applicant is a Government of India enterprises and reduction of quantum of mesne profits would save wastage of public funds.

25. Considering the above position, I proceed to pass the following order:

- i) Judgment and order dated 7 March 2022 passed by the Small Causes Court in Mesne Profit Application No.648 of 2015 and judgment and order dated 27 February 2026 passed by the Appellate Bench of Small Causes Court in Miscellaneous Appeal No.44 of 2024 are set aside.
- ii) Mesne profits in respect of the suit premises are determined at Rs.5,80,000/- per month payable in respect of period from 1 June 2010 to 16 November 2014.
- iii) Applicant shall accordingly pay to the Respondent mesne profits at the rate of Rs.5,80,000/- per month from 1 June 2010 to 16 November 2014 alongwith simple interest at the rate of 6% p.a. If any amount is already paid, Applicant would be entitled for adjustment of the said amount.

26. With the above directions, the Civil Revision Application is partly allowed and **disposed of**. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)