

ORDER BELOW EXH.5
IN REGULAR CIVIL APPEAL NO. 340/2019

Appellant has filed present application to stay the execution of judgment and decree dt. 28.02.2019 passed by the Judge, Small Causes Court, Pune, in Civil Suit No. 200/2015.

2] Perused the application and reply of respondents below Exh.17. Heard learned counsels for both the parties.

3] Learned counsel for the appellant has submitted that the appellant has every hope of success in this appeal. So, execution of impugned decree be stayed.

4] The learned counsel for the respondent-landlords has submitted that the appellant has to pay compensation pending hearing of the appeal as per judgment in Atmaram Properties Ltd. vs. Federal Motors (P) Ltd, (2005) 1 SCC 705. On the other hand, learned Counsel for appellant/tenant submitted that the suit premises is residential premises and that the ratio of Atmaram Properties is not applicable to present case.

5] It is seen from the judgment of trial court that, the suit premises is admeasuring 144.96 sq.ft., on ground floor of building situated at C.T.S. No. 846, Bhawani Peth, Pune. It was let out to appellant on monthly rent of Rs.60/- by the original landlord for residential purpose. The decree is passed as per Section 16(1)(i) and 16(6) of Maharashtra Rent Control Act. It is also seen that the appellant/tenant is opposing the construction of new building on the ground that he requires more carpet area

than the existing one.

6] It is well settled that pending hearing of the appeal the decree holder could be deprived of getting possession. For, he needs to be compensated as per guiding principles laid down in 'Atmaram Properties' case.

7] Neither the appellant nor the respondent has placed on record any document to guess the market value of the suit premises. Suit premises is situated at Bhavani Peth, Pune, which is prime location of the city. Appellant is occupying area admeasuring 144.96 sq.ft and is paying monthly rent of Rs. 60/- for that. The same is definitely meagre and unreasonable considering the location and prevailing market rates.

8] The landlord holding eviction decree is entitled for compensation as per prevailing circumstances. However, the compensation should be reasonable. Considering the location and prevailing market rates, compensation amount of Rs.1,000/- p.m. would be just and proper.

9] In view of the above, I pass the following order:-

ORDER

Application is allowed as under;

Pending hearing of the appeal, execution of impugned decree is hereby stayed subject to following conditions;

i] The appellant shall deposit compensation @ Rs.1,000/- per month

from the date of decree i.e. 28.02.2019,
in this Court.

- ii] Arrears of compensation shall be deposited within 15 days from today and thereafter the appellant shall continue to deposit compensation on or before 5th day of each month.
- iii] Stay will be vacated automatically on default of payment of arrears or any two consecutive defaults in depositing compensation amount.

Pune.
Date :29.11.2021

(Tushar T.Aglawe)
Adhoc District Judge-2,Pune

CERTIFICATE

I affirm that the contents of this P.D.F. file Order is same word for word as per original Order

Name of Steno : Mrs. Bankapure- Steno Grade - I

Court Name : Shri. T.T.Aglawe
Adhoc DJ-2 Pune

Date of Order : 29.11.2021

Signed by P. O. : 29.11.2021

Uploaded on : 29.11.2021