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13_wp_1555_2026

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

WRIT PETITION NO.2033 OF 2026

Mrs. Varsha Narandas Sejpal

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1556 OF 2026

Vishal Narandas Sejpal

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1555 OF 2026

Mrs. Varsha Narandas Sejpal

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1925 OF 2026

Kirit Damodar Parikh and Ors.

...Petitioners

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1944 OF 2026

Mrs. Varsha Narandas Sejpal

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1943 OF 2026

Damodar Chakubhai Oil & Vegetables
Pvt. Ltd.

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1924 OF 2026

M/s. M.K. Trading Co.

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1957 OF 2026

Mahesh Damodar Parikh and Ors.

...Petitioners

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1921 OF 2026

Sachin Vamaya Shetty

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1942 OF 2026

M/s. Balaji Enterprises

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading
Co. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.1920 OF 2026

Narandas Amratlal Sejpai

...Petitioner

V/s.

M/s. New Dholera Shipping & Trading

Co. Ltd. and Ors. ...Respondents

WITH

WRIT PETITION NO.1955 OF 2026

Narandas Amratlal Sejpai HUF ...Petitioner

V/s.

M/s. New Dholera Shipping & Trading

Co. Ltd. and Ors. ...Respondents

WITH

WRIT PETITION NO.1922 OF 2026

M/s. Sharad Trading Co. ...Petitioner

V/s.

M/s. New Dholera Shipping & Trading

Co. Ltd. and Ors. ...Respondents

WITH

WRIT PETITION NO.1954 OF 2026

Narandas Amratlal Sejpai ...Petitioner

V/s.

M/s. New Dholera Shipping & Trading

Co. Ltd. and Ors. ...Respondents

WITH

WRIT PETITION NO.2307 OF 2026

Mukesh Harilal Goradia and Anr. ...Petitioners

V/s.

M/s. Dholera Shipping and Trading Co.

Ltd. and Ors. ...Respondents

WITH

WRIT PETITION NO.4611 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd. ...Petitioner

V/s.

Mahesh Damodar Parikh and Ors. ...Respondents

WITH

WRIT PETITION NO.4613 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd. ...Petitioner

V/s.

Kirit Damodar Parikh and Ors.

...Respondents

WITH

WRIT PETITION NO.4615 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd.

...Petitioner

V/s.

Sachin Vamaya Shetty and Ors.

...Respondents

WITH

WRIT PETITION NO.4619 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd.

...Petitioner

V/s.

M/s. M.K. Trading and Ors.

...Respondents

WITH

WRIT PETITION NO.4621 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd.

...Petitioner

V/s.

Damodar Chakubai Oil & Vegetables
Pvt. Ltd. and Ors.

...Respondents

WITH

WRIT PETITION NO.4622 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd.

...Petitioner

V/s.

Vishal Narandas Sejpal and Ors.

...Respondents

WITH

WRIT PETITION NO.4624 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd.

...Petitioner

V/s.

Narandas Amratlal Sejpal HUF and
Ors.

...Respondents

**WITH
WRIT PETITION NO.4625 OF 2026**

M/s. New Dholera Shipping & Trading Co. ...Petitioner

V/s.

Narandas Amratlal Sejpal and Ors. ...Respondents

**WITH
WRIT PETITION NO.4627 OF 2026**

M/s. New Dholera Shipping & Trading Co. Ltd. ...Petitioner

V/s.

Mrs. Varsha Narandas Sejpal and Ors. ...Respondents

**WITH
WRIT PETITION NO.4628 OF 2026**

M/s. New Dholera Shipping & Trading Co. Ltd. ...Petitioner

V/s.

M/s. Balaji Enterprises and Ors. ...Respondents

**WITH
WRIT PETITION NO.4629 OF 2026**

M/s. New Dholera Shipping & Trading Co. Ltd. ...Petitioner

V/s.

Mrs. Varsha Narandas Sejpal and Ors. ...Respondents

**WITH
WRIT PETITION NO.4630 OF 2026**

M/s. New Dholera Shipping & Trading Co. Ltd. ...Petitioner

V/s.

M/s. Sharad Trading Co. and Ors. ...Respondents

**WITH
WRIT PETITION NO.4631 OF 2026**

M/s. New Dholera Shipping & Trading Co. Ltd. ...Petitioner

V/s.

Varsha Narandas Sejpal and Ors.

...Respondents

WITH

WRIT PETITION NO.4641 OF 2026

M/s. New Dholera Shipping & Trading
Co. Ltd.

...Petitioner

V/s.

Narandas Amratlal Sejpal and Ors.

...Respondents

Mr. Jaydeep Deo *i/b. Mr. Onkar Gawade for the Petitioner in WP/2033/2026 wp/1556/2026, wp/1555/2026,, wp/1925/2026, wp/1944/2026, wp/1943/2026, wp/1924/2026, wp/1957/2026, wp/1921/2026, wp/1942/2026, wp/1920/2026, wp/1955/2026, wp/1922/2026 and wp/1954/2026.*

Mr. Sudhanva Bedekar *with Mr. Mohammed Najmi for the Petitioner in WP/2307/2026.*

Mr. Piyush Raheja *with Mr. Sharad Bansal, Mr. Sahil Gandhi, Ms. Dimple Vora and Mr. Darshil Desai i/b. M/s. Makrand Gandhi & Co. for the Petitioner in wp/4611/2026, wp/4613/2026, wp/4615/2026, wp/4619/2026, wp/4621/2026, wp/4622/2026, wp/4624/2026, wp/4625/2026, wp/4627/2026, wp/4628/2026, wp/4629/2026, wp/4630/2026, wp/4631/2026, wp/4641/2026 and for Respondent in wp/2033/2026, wp/1556/2026, wp/1555/2026,, wp/1925/2026, wp/1944/2026, wp/1943/2026, wp/1924/2026, wp/1957/2026, wp/1921/2026, wp/1942/2026, wp/1920/2026, wp/1955/2026, wp/1922/2026 and wp/1954/2026*

CORAM: SANDEEP V. MARNE, J.

DATED: 10 APRIL 2026.

P.C.:

1) These are cross Petitions filed by Obstructionists and by Lessor/Decree Holders challenging the orders passed by the Appellate

Bench of the Small Causes Court on 2 December 2025 determining the interim compensation payable in respect of each of the units occupied by the Obstructionists as a condition for stay to the execution of the judgment and decree dated 29 January 2014 passed in T.E. & R. Suit No.230/249 of 2003.

2) I have heard Mr. Jaydeep Deo, the learned counsel appearing for the Obstructionists, Mr. Bedekar, the learned counsel appearing for the Obstructionists in WP/2307/2026 and Mr. Raheja, the learned counsel appearing for Lessor/Decree Holders.

3) The case involves unique circumstances where a lease was granted in respect of the open piece of land. Under the novated term of lease, the Lessee was granted permission to construct building on the leased land and to sell the constructed units to third parties. Though the lease was supposed to be for a period of 99 years, since the lease was not registered, the Small Causes Court interpreted the terms of the lease as a simple monthly lease terminable under Section 106 of the Transfer of Property Act, 1882. This is how recovery of possession of the leased land is directed vide decree dated 29 January 2014 in T.E. & R. Suit No.230/249 of 2003.

4) It appears that the original Lessee had disappeared from the scene apparently because he had already sold the constructed units. The purchasers of the units have formed a co-operative society, which filed appeal against decree dated 29 January 2014. The Appellate Court determined interim compensation of Rs.7,05,637/- and directed the

Society to deposit the same as a pre-condition for grant of stay to the decree for eviction. It appears that the Society had paid amount of interim compensation till December 2017. After January 2018, the Society defaulted in deposit of amount of interim compensation. Since the Society defaulted in payment of amount of interim compensation, the Decree Holders attempted to execute the decree and recover possession of the suit property. At this stage, several individual members of the Society, who are unit owners, presented obstruction to the execution of the decree. Accordingly, several Obstructionist Notices came to be registered by the Executing Court. The Obstructionists Notices have been rejected by the Executing Court against which the Obstructionists have filed appeals before the Appellate Bench of the Small Causes Court. In those appeals, the Appellate Bench has determined interim compensation of Rs.13,000/- per month in respect of each of the units and has directed the Obstructionists to deposit the same from the date of decree i.e. 29 January 2014.

5) Considering the above position, it is clear that the Society initially opposed execution of the decree and tried its luck by filing appeal before the Appellate Bench challenging eviction decree dated 29 January 2014. In its appeal, the Society was directed to deposit interim compensation of Rs.7,05,637/-, which it deposited upto December 2017. After January-2018 neither the Society nor individual Obstructionists /unit occupiers have deposited any interim compensation.

6) In my view, therefore, liability to deposit interim compensation by Obstructionists need to be from January-2018. To this limited extent the Appellate Court has erred in directing to deposit of interim

compensation from the date of decree i.e. 29 January 2014. If Obstructionists are required to deposit interim compensation from 29 January 2014 there shall be double deposit / payment of interim compensation during 29 January 2014 to December-2017 since Society has already deposited interim compensation of Rs.7,05,637/- upto December-2017.

7) So far as quantum of interim compensation fixed by the Appellate Bench is concerned, the Decree Holders have questioned the same. Since the Decree Holders did not question the quantum of interim compensation fixed against the Society of Rs.7,05,637/- in my view they cannot now question the quantum of interim compensation of Rs.13,000/- fixed by the Appellate Bench. There are apparently 56 units of the building and if amount of Rs.7,05,637/- is divided by 56 units, the amount payable in respect of each unit roughly comes to the tune of Rs.13,000/-. I am therefore, not inclined to interfere in the quantum of interim compensation fixed by the Appellate Court.

8) Mr. Deo, the learned counsel appearing for the Obstructionists has relied upon order dated 6 August 2024 in Civil Writ Petition No.2721 of 2024 (***Ratnakar Dattatraya Khambe and Ors. V/s. M/s. New Dholera Shipping and Trading Company Ltd. and Ors.***). However, it appears that order dated 6 August 2024 is merely a *pro tem* arrangement made during pendency of the said Petition. In that case, the Obstructionists apparently lost even before the Appellate Bench and have challenged the order of the Appellate Bench by filing writ petition before this Court. As a *pro tem* arrangement, this Court directed to deposit the interim compensation of Rs.13,000/- per month from month of February-2024.

The date of February 2024 is not sacrosanct and cannot be applied in the present case. There is no dispute to the position that the Society has failed to deposit the interim compensation after January 2018 and therefore, if Obstructionists are opposing execution of the decree, it is their responsibility to deposit the interim compensation from January-2018.

9) It is contended on behalf of the Obstructionists that some respite be granted in respect of Covid-19 period due to Pandemic related restrictions. Considering the fact that economic activities had come to a grinding halt and were largely affected during Covid-19 Pandemic period from March 2020 till February-2022, in my view, some concession can be granted to the Obstructionists in respect of said period. It must also be borne in mind that the Obstructionists are ultimately the purchasers of the units and have purchased the same under a sanguine hope that they would acquire ownership in respect of the structures. The decree for eviction is passed essentially on account of failure on the part of the Developer to register the condition of lease.

10) Considering the peculiar circumstances of the present case, 50% concession deserves to be granted in respect of the period from March-2020 till February-2022 during Covid-19 Pandemic restrictions.

11) Accordingly, I proceed to pass the following order:-

- (i) Orders dated 2 December 2025 passed by the Appellate Bench of the Small Causes Court are modified to the following extent:-

- (a) Quantum of compensation of Rs.13,000/- per month by the Appellate Bench is confirmed.
- (b) Obstructionists shall be liable to deposit interim compensation of Rs.13,000/- per month from January-2018 till disposal of the Appeal.
- (c) Obstructionists shall be entitled to 50% concession in making the deposit of the interim compensation and they shall deposit amount only of Rs.6,500/- per month from March-2020 to February-2022.

(ii) If the Obstructionists deposit the arrears of interim compensation as modified above, within a period of 8 weeks from today, stay to the execution of the decree granted by the Appellate Bench shall continue to operate during pendency of the Appeals.

(iii) In respect of those Obstructionists, who fail to deposit the interim compensation as modified above, within the stipulated period, the Executing Court shall proceed to execute the decree only *qua* their units.

12) With the above directions, all the Petitions are **disposed of**.

[SANDEEP V. MARNE, J.]