

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 495 OF 2018**

Jamnadas Ratansi (since deceased)

1A. Malti Dhirshi Bhatia and ors.

....Applicants

Versus

Anilbhai Dwarkadas Bhatia (since deceased)

1. Samir Bhatia & ors.

....Respondents

Mr. Nikhil Sakhardande, Senior Advocate with Ms. Shubra Paranjpe, Mr. Punit Damodar, Ms. Nikita Vardhan and Mr. Vishal Tiwari i/b. Kanga and Co, Advocates for the Applicants.

Ms. Nandini Bhatia, Advocate for Applicant No.1B.

Mr. Girish Godbole, Senior Advocate with Ms. Jai Kanade i/b. Dastur Kalambi & Associates, Advocate for the Respondent Nos.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th MARCH 2023.

P.C. :

1. Heard learned senior counsel for the applicants and learned senior counsel for the respondents.

2. Learned senior counsel for respondents submits that the applicants are staying in the suit premises without paying any

compensation and they are enjoying the suit premises since the year 2018, hence, directions be given to the applicants to pay the compensation. Learned senior counsel further submits that as per the valuation report, the compensation of suit premises is Rs.1,43,000/- per month. The applicants have not deposited any compensation amount. The arrears of compensation up to 31st March 2023 is more than Rs.41,00,000/- and hence, direction be given to the applicants to deposit the arrears of compensation and pay the compensation regularly from 1st April 2023.

3. It is the contention of learned senior counsel for the applicants that the applicants are senior citizens, they do not have any source of income, they are not in position to pay any compensation and their financial condition is not sound. Learned senior counsel further submits that valuation report submitted by respondents is on the higher side. As per valuation report, in respect of suit premises, taken out by the applicants, the monthly compensation of suit premises is around Rs.54,000/-. If this Court gives directions to the applicants to deposit reasonable amount, the applicants would consider it.

4. I have heard both learned counsel. Admittedly, the applicants have not deposited any compensation amount since year 2018. As per the view of Hon'ble Apex Court in **Atma Ram Properties Ltd. Versus Federal Motors (P) Ltd., (2005) 1 SCC 705**, while granting ad-interim relief, some compensation needs to be deposited. As per the valuation of the respondents, the compensation of suit premises comes to Rs.1,43,000/- per month. Whereas the applicants say its around Rs.54,000/- per month. Learned senior counsel for respondents submits that if applicants are ready to deposit the compensation regularly, this Court may consider appropriate compensation. Learned counsel for the applicants submits that appropriate order be passed.

5. In view of submissions of both learned senior counsel, in my opinion, Rs.70,000/- per month would be an appropriate interim compensation till the final disposal of the civil revision application. The applicants shall deposit arrears of interim compensation at the rate of Rs.70,000/- per month from 4th May 2018 till 31st March 2023 and from 1st April 2023, the applicants shall deposit Rs.70,000/- as compensation regularly before 10th day of every month.

6. Learned senior counsel for respondents submits that the arrears of interim compensation comes to Rs.41,30,000/-. Learned counsel for the applicants agrees for it.

7. In view of above, I pass following order :

1. The ad-interim relief in terms of prayer clause (b) granted by this Court (Coram : R. G. Ketkar, J.) by order dated 8th April 2019 is confirmed subject to :

(i). The applicants shall deposit arrears of interim compensation amount from 4th May 2018 till 31st March 2023. The applicants shall deposit 50% amount out of arrears of interim compensation of Rs.41,30,000/-, within three months and remaining amount within six months after expiry of three months in this Court.

(ii) The applicants shall deposit the interim compensation amount of Rs.70,000/- in this Court on or before 10th day of every month from April 2023.

2. The Registry is directed to invest the amount of arrears of interim compensation as well as monthly compensation in Fixed Deposit of any Nationalised Bank.
3. All contentions of parties are kept open.
4. In case, the applicants fail to deposit the amount as directed by this Court, the ad-interim relief granted in terms of prayer clause (b) would be vacated.

(SHIVKUMAR DIGE, J.)