

MHSCA20008612021



IN THE COURT OF SMALL CAUSES AT MUMBAI
ORDER BELOW EXHIBIT 16
IN
RENT ACT EVICTION (R.A.E.) SUIT NO. 505 OF 2021

Mr. Devdatt Trilochan Kapadia & Another Plaintiffs

V/s.

Municipal Corporation of Greater Bombay & Another Defendants

Appearance

Mr. Gaurang Mehta, Learned Advocate for the Plaintiffs

Ms. Pushpa Yadav, Learned Advocate for the Defendants

Coram : Amolkumar A. Deshpande, Judge
Court Room No.7

Date : 02nd March, 2024

ORDER:

1. This application is for condonation of delay in depositing rent from April, 2023 onwards. The application is objected.

Contentions in the application:

2. In view of order passed below Exhibit 11 dt. 22nd September, 2021, defendants deposited the amount of rent in Court from the period from October-2021 till April-2023. Thereafter, the concerned Head Clerk Mr. Subhash Mandavkar was transferred to another Section. Mr. Mohommed Azam Ansari took charge of Mr. Subhash Mandavkar on 17th April, 2023. The new Clerk was unaware of the

status of rent. He was under impression that, the rent was regularly paid. Due to advance payment of rent up to April, 2023, Mr. Ansari was under wrong impression that, the rent was paid till September. So, there is a delay in paying rent from May, 2023 onwards. Defendant being public authority, the cheque was got ready on 19th October, 2023 and the Head Clerk received the said cheque from Account Section on 22nd November, 2023. But, it was not accepted by the Cash Department of this Court as there was delay.

3. The delay is not intentional nor deliberate. It is merely because inadvertence or oversight. So, as there will be no prejudice if such permission is given, the delay be condoned and the defendants be permitted to deposit the rent from the period from May, 2023 till September, 2023 amounting to ₹ 10,877/-. Defendants be further permitted to deposit rent regularly from January, 2024 onwards.

Contentions in handwritten say:

4. By handwritten say, the application is strongly objected. Every contention is denied. The grounds are not proper and therefore, the application must be rejected.

Hearing of the application:

5. Learned Advocates appearing on behalf of both parties argued before me.

Reasons and decisions:

6. Record shows that, the application at Exhibit 11 was considered and allowed. Thereby, defendants also deposited the amount of rent for the period from October, 2021 till April, 2023. Transfer of one Clerk and appointment of the another is good ground to consider that, the new Clerk is unaware of the earlier facts. He must be aware of the same but being unaware can be said to be considerable in

given circumstances. Moreover, if the deposit of rent is continued, it will not cause prejudice to plaintiffs. The question of compliance under Section 15 (3) of Maharashtra Rent Control Act, 1999 can be kept open without prejudice to rights and legal contentions of both sides. Therefore, this Court is of the view that, the application can be considered and the permission can be given to defendants to deposit the rent as prayed for.

7. So, the upcoming order is passed.

ORDER

1. In continuation of order passed below Exhibit 11 dt. 22nd September, 2021, defendants are permitted to deposit the due rent from May, 2023 till December, 2023, which be deposited in one month from today.
2. Defendants are also hereby permitted to deposit yearly rent from January, 2024 onwards till disposal of the suit before expiry of month of March for every such upcoming year, till disposal of suit.
3. Plaintiffs may withdraw the amount so deposited.
4. The deposit and withdrawal of amounts shall be without prejudice to the legal contentions and rights of the parties in the suit.
5. Defendants shall avoid delay henceforth.

Date: 02nd March, 2024

(Amolkumar A. Deshpande)
Judge,
Court Room No. 7

Order dictated on : 02.03.2024
Order transcribed on : 05.03.2024
Order checked & signed : 06.03.2024