

CNR No. MHSCA – 20019862018

**IN THE COURT OF SMALL CAUSES AT MUMBAI
ORDER BELOW EXHIBIT –1
IN
MARJI NO. 212 OF 2018**

1. Bruno Paul D'mello (deleted since deceased)

1a. Mrs. Della Bruno D' Mello & Ors. ...Plaintiffs

V/s.

1. B.N. Gauda & Anr. ...Defendants

Shri. D.J. Walavalkar : Advocate for defendants.

**Coram :B.D.Kadam
Judge, C. R. No. 9
Date :31.07.2018**

ORDER

1. By this application, applicant has prayed for permitting him to deposit amount of costs and giving directions to the plaintiffs to supply copy of plaint.
2. It is mentioned in the application that plaintiffs have filed eviction suit No. 1270 of 2010 which was decreed and thereafter present defendant (applicant) had filed application for setting aside that exparte decree by filing MARJI No. 372 of 2015. That MARJI was allowed and by order dated 25.07.2017 court has set aside the exparte decree on payment of costs of Rs. 5000/-. Thereafter, defendant approached to the plaintiffs for giving

costs , but plaintiffs refused to accept the same by saying that he has filed appeal against the order of the court. Present defendant has not served with the copy of appeal memo till date, therefore he wants to deposit the amount of costs in the court.

3. Perused the application, judgment and order passed in MARJI No. 372 of 2015.
4. In that MARJI, court has allowed the application and set aside the decree passed on 14.03.2011 in R.A.E. Suit No. 1270 of 2010 subject to costs of Rs. 5000/-. Therefore, defendant is bound to pay the costs. According to the defendant, he had approached but plaintiffs refused to accept the same. Therefore, there is no hesitation to allow the defendant to deposit the costs in the court. Accordingly order.

ORDER

1. Application is allowed and defendant is permitted to deposit the amount of costs in the court.
2. Prayer of the defendant for giving directions to the plaintiffs for supplying copy of the plaint will be considered after restoration of the suit and defendant may apply for the same.
3. Application is disposed off accordingly.

SD/-

Mumbai.
Date :31.07.2018

[B.D.Kadam]
Judge, C.R. No.9

Dictated on :31.07.2018
Transcribed on :31.07.2018
Checked & signed on :31.07.2018