

MHKO070021722023 	<u>Order Below Exh. 16 in</u> <u>Regular Civil Suit No. 165/2023</u> Aakhilali Saheba bav Inamdar Vs Smt.Vajirabi Mubarak Fakir and others
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The plaintiff has filed this application seeking permission to deposit mortgage amount of Rs.2,00,000/- in the court. The defendants have filed their say on overleaf of the application.

02. Heard both side, perused the record. Considering the rival contentions of the both parties the following points arise for my determination. I have recorded my findings thereon along with reason.

<u>Sr.No.</u>	<u>Points</u>	<u>Findings.</u>
1.	Whether the plaintiff is entitled to deposit the mortgage amount of Rs.2,00,000/- as prayed ?	In the affirmative.
2.	What order ?	As per final order.

REASONS

AS TO POINT NO.1 AND 2

03. The Ld. for the plaintiff argued that, the present suit is filed for redemption of mortgage and for perpetual injunction. It is submitted that, the defendants had advanced mortgage amount of

Rs.2,00,000/- to the plaintiff by way of registered mortgage deed. Thus the term of mortgage deed has expired. Therefore the plaintiff now seeks to deposit the said mortgage amount in the court. Per contra the Ld. Advocate for defendants contended that, the defendant had, in fact, paid a total amount of Rs.4,00,000/- to the plaintiff. However the plaintiff is seeking to deposit only Rs.2,00,000/- and hence, the present application is not tenable. He prayed for its rejection.

04. After going through the facts on record, it appears that the execution of mortgage deed dated 28/10/2013 is not in disputed. At this juncture the period of mortgage has expired, as per the terms of the deed (Exh.3/2). Since the suit will take its own time to be decided on merits. Whether the defendants are paid 2 or 4 lakhs to the plaintiffs is to be decided on merits. In a suit for redemption of mortgage, it is incumbent upon the plaintiff to demonstrate his readiness and willingness to redeem the mortgage. Therefore the plaintiff seeks to deposit the mortgage amount in the court.

05. In such situation, if permission is granted to the plaintiff to deposit the mortgage amount in the court without affecting the rights and contentions of both the parties, no prejudice will be caused to the defendants. This act will not amount to creation of any evidence, as the order is passed without affecting the rights of the defendants. Hence permitting the plaintiff to deposit the amount in the court will not cause any harm to the defendants. Hence I

answered as to point No.1 in the affirmative and for point No.2 I pass following order -

ORDER

- 1) application at Exh.16 is allowed.
- 2) The plaintiff is permitted to deposit an amount of Rs.2,00,000/- (Rs.Two Lakhs Only) through the cheque no. 968973 of State Bank of India, in the court.
- 3) The above order is passed without affecting rights and contentions of both parties to this suit and shall be subject to the outcome of the final decision of the suit.

Jaysingpur.
Date – 25/09/2025.

(**M. S. Patil**)
2nd Jt. Civil Judge Junior Division,
Jaysingpur. (Court No.02)