



REGULAR CIVIL SUIT NO.99/2021
ORDER BELOW EXH.12
MHSI06-000601-2021
(Ramesh Bhat etc.5 Vs.Shivprasad Korgaonkar)
(Passed on : 20/01/2026)

Present application is filed by plaintiff and submitted that the suit is filed for recovery of possession and for cancellation to tenancy due to default in payment of rent. The rent of Rs.4000/- was fixed to pay per month by the defendant. He denied the contentions of the plaintiff in whole. Further, alleged false sale deed executed by the defendant is sought to be cancelled vide suit instituted in the Court of Civil Judge, Senior Division. Therefore, he prayed to deposit the rent amount of Rs.4000/- per month in the Court by the defendant.

2. Defendant has objected the application by filing say at Exh.14. He stated that, application is false and frivolous. Defendant is the owner of the property in dispute. Therefore, he is not liable to pay any rent. He was paying rent to Vishram Bhat in his life time and after his death to his wife Bharati Bhat. Purchase the property from said Bharati Bhat by sale deed bearing registration No.735/2018 dated 27.03.2018. Accordingly, revenue entries also registered to the property. Plaintiff is not declared as a owner by any court in respect of the suit property after the the death of Vishram. Neither he has filed any suit to declared him as legal heirs of the deceased Vishsam. Therefore, he is not entitled to recover any amount from the defendant and suit is itself liable to be dismissed, as plaintiff has no right to file such type of suit. Hence, he prayed for rejection the application with compensatory cost of Rs.3000/-.

3. Perused application and say.

4. Heard Ld. Advocate Shri. R. D. Ambiyé for plaintiff and Shri. A. K. Nirwadekar for defendant. Perused record.

5. Plaintiff has filed the *prima facie* documents on record, the property extract bearing No.790A-2 and the notice issued to the defendant. He also filed the certified copy of Exh.6 in Spl. Civil Suit No.14/2019, copy of reply given by the defendant. On perusal of assessment extract, it appears that, in ownership column the name of defendant is mentioned as a owner of the property. Further, it is contended by the defendant that, he is the owner of the property through registered sale deed. Now, admittedly, said sale deed challenged by the present plaintiff in the court of Civil Judge, Sr. Division, Oros. Therefore, clearly the ownership of the property is under cloud. Further, there is specific submission by the defendant that, he was paying rent to Bharati Bhat after the death of Vishram and subsequently sale deed is executed in his favour by her. Therefore, the entitlement of the present plaintiff as a heirs of deceased Vishram is yet to be determined by the Competent Court and there is no *prima facie* document to show rightful ownership of present plaintiff.

6. Further, it is argued by Ld. Advocate for plaintiff that, the present application is filed under order XV-A (Bombay Amendment) of the Code of Civil Procedure, 1908 (hereinafter "C.P.C" in short). Therefore, it is important in look into the provision, which I have reproduced as follows-

"Order XV-A, 1. In any suit by a lessor or a licensor against a lessee or a licensee, as the case

may be, for his eviction with or without the arrears of rent of license fee and future mesne profits from him, the defendant shall deposit such amount as the Court may direct on account of arrears up to the date of the Order (within such time as the Court may fix) and thereafter continue to deposit in each succeeding month the rent or license fee claimed in the suit as the Court may direct. The defendant shall unless otherwise directed continue to deposit such amount till the decision of the suit.

7. Form above provision, it is very clear that, in any suit **by lessor or licensor** against a **lessee or licensee** as the case may be, means the suit must be filed by lessor or licensor. Further, as per section 109 of Indian Evidence Act, 1872, relationship as to partners, landlord and tenant, principal and agent etc. has to be shown. Therefore, it can be said that, *prima facie* relation as to lessor and lessee should be on record. In present case, the relationship is itself in question which is yet to be proved. On perusal of plaint and W.S., it appears that, the plaintiff is praying for recovery of the suit premises on the ground of default in rent and defendant is denied the relation between plaintiff and defendant as to lessor and lessee. *Prima facie*, when ownership of plaintiff is itself in dispute and question as to whether the plaintiff is lessor of the suit premises is necessary to be decided on the merit, then no direction as to deposit of amount of rent in the court by defendant can be given at this stage. Further, there is no *prima facie* evidence on record, to show that, he is the owner of suit premises. Ownership is under trial by way of litigation between the parties.

8. Further, the submission of the plaintiff as to recovery of rent from other person is not possible is concern, same also cannot be considered as Plaintiff has ample opportunity to recover mesne profit, if he succeeded in the suit. Therefore, same is also premature statement made by the plaintiff. Considering the circumstance, when the relationship between the parties is itself is fact in issue and same is necessary to be decided on the merit, this application cannot be considered under Order XV-A of the C.P.C.

9. Defendant is claiming compensatory cost of Rs. 3000/-. However, to show *prima facie*, application filed by the plaintiff against the objector, false or vexatious to the knowledge of the party by whom it has been put forward. No such *prima facie* evidence has been put-forth by the defendant. Therefore, defendant is not entitled for compensatory cost as claimed. In view of above discussion and to avoid to cause prejudice to any person. I pass following order.

-:: ORDER ::-

1. Application is hereby rejected.
2. No order as to costs.

(Dictated and pronounced in the open court.)

Date : 20-01-2026
Place: Sawantwadi.

(Smt. R. G. Kumbhar)
Jt.Civil Judge (J.D.),
Sawantwadi.