

IN THE COURT OF DISTRICT JUDGE – 2, SOLAPUR

Regular Civil Appeal No.45/2025

Farjana Jalal alias Jalaluddin Shaikh

Versus

Ramesh Narhari Dixit

Order Below Exh.16

01. This is an application seeking direction to the appellant to deposit arrears of rent due i.e. Rs.4,15,000/- in lump sum and the relief to the effect that if such amount if not paid, directions to dismiss the appeal.

02. The application in nutshell is that :-

The appellant/defendant has filed the present appeal against the order below Exh.41 rejecting the counter claim filed by her. It is contended that vide application Exh.30 the appellant/defendant sought condonation of delay in filing the WS and counter claim. The same was allowed subject to the condition that the rent till the year 2022 shall be deposited. However, the same was not deposited. Accordingly, by invoking the provisions of Order VII Rule 11 of CPC, the learned trial Court refused to take the counter claim on record by condoning the delay. As against the same, the present appeal has been filed.

03. It is contended that the appellant/defendant is principally a defaulter. Hence, the appeal is liable to be dismissed and in the mean time the present application has been filed.

04. The application has been resisted by say Exh.18. It is contended that though the present appeal has been filed against the

order passed by the learned Trial Court, the original order passed below Exh.30 has been challenged by the appellant/defendant before the Hon'ble High Court, Bench at Kolhapur in Writ Petition No.19223 of 2024. As such, application Exh.16 is regarded as not maintainable.

05. Heard the learned Adv. Shri. Swami for the respondent/landlord and Shri. Shaikh, learned Advocate for the appellant/tenant. Perused the record.

06. The perusal of list of document at Exh.20 points out to the fact that vide order dated 22/08/2025 the Hon'ble Bombay High Court, in W.P. No.19223 of 2024 has issued notice to the respondent returnable on 19/09/2025. Accordingly, the matter is subjudice before the Hon'ble Bombay High Court. As a result, it would be appropriate to await for the orders of the Hon'ble High Court before directing the appellant/defendant/tenant to deposit the entire amount of arrears in lump sum and to order dismissal of appeal for non compliance of the same. Hence, the order :

ORDER

I. The application Exh.16 is rejected in view of pendency of the Writ Petition No.19223 of 2024 before the Hon'ble Bombay High Court challenging the order below Exh.30 in the parent suit.

II. Order accordingly.

Date :-05.02.2026.

(Yogesh A. Rane)
District Judge 2, Solapur