

COMMON ORDER BELOW EXH.62 & 119 & 43 IN R C.S. No.49/2012
Sau. Lalita Rajkumar Agrawal Vs. The Akot Urban Co-op Bank & Anr.

The plaintiff has filed the applications Exh.62 and 119 under Order 40 Rule 1 r/w. section 151 of Civil Procedure Code. On the other hand defendant No.3 has also filed application below Exh.43 for appointment of receiver as per order 40 Rule 1 of CPC. It is submitted that the plaintiff has filed suit for possession, arrears of rent, damages against the defendants. The plaintiff claimed possession of one room situated in the building on east north corner on round floor. The building is situated at Washim Dist Washim in Nazul Sheet No.61, Plot No.381 at Washim, Tq. & Dist. Washim having area 25 east west and 12 feet north-south. The said suit premises is rented to the defendant bank. By the father of the plaintiff in the year 1996. The defendant bank has not vacated the premises and also not paid the rent from 01/06/2009. Now the said bank is in liquidation. The defendant bank has no right to remain in possession. The bank has also not paid municipal taxes since 2006. The plaintiff has paid municipal taxes. The plaintiff is suffering heavy loss of rent. Moreover, the said premises is locked and bank is also not in existence. The possession of defendant Nos.1 and 2 is that of trespasser. Therefore, plaintiff has filed these applications for appointment of receiver. If the receiver is not appointed the plaintiff may suffer irreparable loss and heavy loss.

2] The defendant No.1 failed to file its say. Hence, my learned predecessor passed the order as the application proceeded without its say.

3] Defendant No.3 has filed his say. He opposed the application. Defendant No.3 submitted that he has filed Exh.43 and that

Exh.43 treated as say on this application. In application Exh.43 it is submitted by the defendant No.3 that he has already filed a counter claim in respect of suit shop which is in possession of defendant No.1 and 2 wherein he has claimed declaration of relationship in between himself and defendant Nos.1 and 2 as landlord and tenant with ancillary relief. The plaintiff is claiming possession of the suit shop from the defendant Nos.1 and 2 also arrears of rent. During the pendency of the suit the plaintiff No.2 Narayndas is expired. This defendant No.3 is a adopted son of deceased Narayndas. It is specifically contention of this defendant that there was oral partition in between this defendant and deceased Narayandas on 14/01/2002 and in the said partition the building including the suit premises was given to the share of this defendant. The said oral partition was reduced into writing as a memorandum of partition on 12/01/2002. This defendant is not having sufficient property and business for the maintenance of his family. He can manage and conduct the business in the said premises because of his close residence near the shop. There is no any alternate shop is run by him. Deceased Narayandas had not given any property after the partition to this defendant. On the contrary Narayandas has given huge cash of fixed deposit more than 7,00,000/- to plaintiff No.1. Further more one plot is purchased in her name by deceased Narayndas. Thus, the husband of plaintiff No.1 is very rich person and his bungalow at Lakhala. The plaintiff No.1 and he rhusband owns about 35 to 40 agricultural land at village Koyali Bk. Thus, the suit shop is needless for them till determination of the rights by the Court. Deceased Narayandas already given much property to the plaintiff No.1 and her husband.

4] Defendant No.3 submitted that during the pendency of the suit, defendant No.1 and 2 are ready to vacate the suit premises and ready to deliver the possession to the Court. Therefore, defendant No.3

prays to appoint this defendant as a receiver over the suit shop where he can do his business. Defendant No.3 submitted that he undertake to vacate the suit premises as and when ordered by the Court. He is ready to abide any terms and conditions. He is ready to furnish security to act as receiver of the suit plot.

5] Heard both the sides. It appears from the record that the suit property was in possession of the defendant Nos.1 and 2. It also appears that those defendants have filed application below Exh.42. By the said application they have sought permission to hand over the possession of suit property. It appears that my learned predecessor has passed the order on the said application on 07/02/2023. The directions were given to the defendants to keep the keys of suit property with their counsel. Learned counsel for the plaintiff as well as defendants submitted that the said keys are with the counsel of defendant Nos.1 and 2. The suit property is located in prime locality. It can fetch rent so the municipal taxes and other maintenance can be paid from the rent. Not only this if the plaintiff is permitted to act as a receiver then certainly it will be beneficial to him because in that event he will rent out the suit premises. So that he can earn handsome amount and he will not suffer any loss. The respondent No.3 has also submitted same thing.

6] Admittedly, the suit premises is locked and the keys of same are with the counsel of defendant No.1. Certainly, as the suit property is in locked condition it can be easily gathered that no one is maintaining it. Not only this as the suit property is in vacant position the plaintiff nor the defendant No.3 is getting the rent. Admittedly, the suit property is located in commercial area therefore, said property can fetch rent at the commercial rate. Apart from this fact, if the suit property is let out

then the maintenance expenses, municipal taxes can be born from the rent. Considering this aspects, I came to conclusion that it will be just and proper to appoint receiver. So far as the question to whom be appointed as receiver as concerned admittedly, the plaintiff is residing in some portion of same building therefore certainly, the plaintiff is best person who can act as receiver. Therefore, I came to the conclusion that it will be just and proper to allow the application of plaintiff filed below Exh.62 and 119. So far as the application of defendant No.3 is concerned as I have already allowed the application of plaintiff therefore, the application of defendant No.3 filed below Exh.43 can not be considered and same is liable to be rejected. Hence, I pass following order -

ORDER

- 1] Applications Exh.62 and Exh.119 are allowed. Application Exh.43 of defendant No.3 is rejected.
- 2] The plaintiff Sau. Lalita Rajkumar Agrawal is appointed as receiver of the suit property.
- 3] The plaintiff is hereby permitted to obtained the keys of suit property from learned counsel of defendant Nos.1 and 2.
- 4] The plaintiff can let out the suit premises according to the provisions of law. She has to pay the municipal council taxes so also she can bare the charges of maintenance from the said rent. The plaintiff has to deposit remaining amount in Court. The amount deposited by the plaintiff shall be kept in FDR in nationalized bank till the conclusion of the suit. The entitlement of the parties for the said deposited amount shall be decided at the time of judgment. In terms application is allowed.

Washim.
Date:- 28/10/2025.

(S. S. Sahasrabudhe)
Civil Judge (Sr. Div.), Washim.

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. V. Dere (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 28/10/2025
- 4) Order signed by the presiding officer on :- 28/10/2025
- 5) Order uploaded on :- 30/10/2025