

EJECTMENT SUIT NO. 202 OF 2007 [1228/2014]
C. N. R. NO. WBPS01-000571-2007
Before Smt. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO. 125 DATED 20.11.2024

Both parties file hazira.

Today is fixed for further hearing of the petition dated 06.12.2023 filed by the plaintiff.

Defendant has also filed one petition under Sec.151 of C.P.C. on affidavit praying for condonation of delay in depositing the rent since October 2024 and extend the time for depositing the same on the ground stated therein. Copy served. Let the same be kept with the record.

Ld.Advocate for both sides are present.

The record is taken up for hearing of the petition under Or.XXII R.2 read with Sec.151 of C.P.C. dated 06.12.2023 by filing which it is stated by the defendant that the Plaintiffs are all the Trustees of M.B.Commercial Trust and continues to be the owner of the entire premises. That on or about 05.08.2021, one of the Trustees namely Shri Dhanpat Raj Bhansali, Plaintiff no.5 retired from the said Trust on 28.07.2022 and another Trustee namely Shri Sajjan Kumar Phumbhra who is Plaintiff no.2 expired on 28.07.2022. The Deed of Trust explicitly provided that there should be not less than three Trustees and more than seven Trustees and accordingly, plaintiff is entitled to appoint new Trustees vide Truste Deed dated 31.08.2022 and thus prayed for substitution of the names of newly appointed Trustees namely Shri Ashok Vardhan Bagree and Shri Om Prakash Lohia in place of Shri Sajjan Kumar Phumbhra (Plaintiff no.2) and Shri Dhanpat Raj Bhansali (Plaintiff no.5).

Considering the petition, submission of ld. Advocate for the plaintiff and the materials on record, it appears from the copy of the Deed of Indenture dated 31.08.2022 filed by the plaintiff that Shri Ashok Vardhan Bagree and Shri Om Prakash Lohia are the incoming Trustees to the Estate. Accordingly, I find no impediment to allow the instant petition.

Hence, it is

ORDERED

that the petition under Or.XXII R.2 read with Sec.151 of C.P.C. dated 06.12.2023 filed by the plaintiff is allowed on contest without any cost.

Let the names of newly appointed Trustees namely Shri Ashok Vardhan Bagree and Shri Om Prakash Lohia be substituted instead and in place of Shri Sajjan Kumar Phumbhra and Shri Dhanpat Raj Bhansali as Plaintiff no.2 and Plaintiff no.5 respectively.

D.A. is directed to note it accordingly.

ORDER NO. 125 contd.

Plaintiff is directed to file amended copy of plaint.

Fix 08.01.2025 for filing amended copy of plaint, hearing of the petition filed by the defendant today and evidence of further P.W. W/O, if any, in the meantime.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]