IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 205 OF 2026
WITH
INTERIM APPLICATION NO. 2828 OF 2026
WITH
INTERIM APPLICATION NO.3466 OF 2026
IN
CIVIL REVISION APPLICATION NO.205 OF 2026

Sayyed Asgar Hussaini and Anr. **...Applicants**

V/s.

Arshad Rafique Charolia and Anr. **...Respondents**

Mr. Hamza Lakhani *with Mr. Vashim A. Shaikh for the Applicants.*

Mr. Shravan M. Vyas *with Mr. Vivek S. Vyas for the Respondents*

CORAM: SANDEEP V. MARNE, J.

Reserved on: 5 MAY 2026.

Pronounced on: 8 JUNE 2026.

JUDGMENT:

1) The Applicants have filed the present Revision Application challenging the judgment and decree dated 31 January 2026 passed by the Appellate Bench of the Small Causes Court dismissing Appeal No.214 of 2017 and confirming the judgment and decree dated 3 May 2017 passed by the Trial Court in R.A.E. Suit No.1266/1913 of 2010. The Trial Court has decreed Plaintiffs' Suit and has directed eviction of the Applicants /Defendants on the ground of default in payment of rent.

2) Gala No.349/351 situated at 363, Parshuram Pupala Marg (West Bapti Road), Mumbai- 400 008 bearing Survey No. 164 of Tardeo Division are the **suit premises.** The property situated at 363, Parshuram Pupala Marg (West Bapti Road) was originally owned by one Rafiq Abdulrehman Charoliya, who executed Tenancy Agreement dated 18 September 2003 with the Defendants/Applicants and inducted them as monthly tenant in the suit premises. The landlord-Rafiq Charoliya passed away on 9 May 2007 and after his death, Plaintiffs claimed ownership in respect of the suit premises. According to the Plaintiffs, the Defendants were irregular in payment of rent and had committed default in paying the rent from 1 April 2008 onwards. The Plaintiffs issued demand notice dated 30 November 2009 under Section 15(2) of the Maharashtra Rent Control Act, 1999 (**MRC Act**) calling upon the Defendants to pay arrears of rent. The Notice was sought to be served through three modes of Registered Post Acknowledgment Due, Under Certificate of Posting and by pasting on the door. According to the Plaintiffs, the Defendants failed to pay arrears of rent despite service of the demand notice. The Plaintiffs accordingly filed R.A.E. Suit No.1266/1913 of 2010 against the Defendants seeking recovery of possession of the suit premises on the ground of default in payment of rent. The writ of summons was served on the Defendants on 27 September 2011. The Defendants filed written statement on 9 December 2011 resisting the Suit. Alongwith their written statement the Defendants also filed application seeking permission to deposit arrears of rent from 1 April 2008 till December 2011 @ Rs.845/- per month alongwith 15% interest and costs of the Suit. The Application was allowed by the Trial Court on 12 December 2011 permitting the Defendants to deposit arrears of rent from 1 April 2008

till December-2011 @ Rs.845/- per month amounting to Rs.38,025/- together with interest @ 15% per annum and costs of the Suit. The Trial Court also permitted the Defendants to deposit rent from January-2012 @Rs.845 per month after 15th day of every month. The Defendants deposited an amount of Rs.50,314/- on 15 December 2011. During pendency of the Suit, Plaintiffs served notice dated 3 October 2013 on the Defendants demanding rent @Rs.2534 per month from 1 April 2010 on the ground of increase in the property taxes due to application of capital value concept. The Defendants filed application at Exhibit-16 for fixation of standard rent as well as the interim rent. By order dated 7 June 2016, the Trial Court fixed interim rent in respect of the suit premises @Rs.2,000/- per month and directed the Defendants to pay /deposit arrears of rent (amount of difference in rent at the rate of Rs.2,000/- per month) from 1 April 2010 onwards on or before 30th June 2016. According to the Defendants, they have deposited the amount of interim rent in pursuance of order dated 7 June 2016.

3) Based on the pleadings, the Trial Court framed issues. Parties led evidence in support of their respective claims. The Plaintiffs examined Plaintiff No.2 as P.W.-1 and relied on several documents. The Defendants examined Defendant No.1 as D.W.-1 and relied on several documents. After considering the pleadings, documentary and oral evidence, the Trial Court delivered the judgment on 3 May 2017. The Trial Court held that the demand notice was validly served on the Defendants. The Trial Court further held that the Defendants had become defaulter as per Section 15(3) of the MRC Act on account of non-payment of entire arrears of rent while making the deposit in pursuance of order dated 12 December 2011. The Trial Court accordingly proceeded to decree the Suit

on the ground of default in payment of rent and directed the Defendants to vacate the suit premises and handover possession of the same to the Plaintiffs within a period of 90 days. The Trial Court further directed conduct of separate enquiry into *mesne* profits as per Order XX Rule 12 of the Code of Civil Procedure, 1908 (**the Code**).

4) Aggrieved by the eviction decree dated 3 May 2017 passed by the Trial Court, the Defendants filed Appeal No.214 of 2017 before the Appellate Bench of the Small Causes Court. The Defendants filed Application seeking stay of the eviction decree. The Appellate Court granted stay to the eviction decree subject to deposit of the interim compensation @Rs.18,000/- per month during pendency of the Appeal. The Defendants also filed Application for deposit of arrears of standard rent @Rs.2,000/- per month from July 2017 till August-2020. By order dated 25 August 2022 the Appellate Court allowed the said application permitting the Applicants to deposit arrears of standard rent @Rs.2,000/- per month over and above amount of Rs.18,000/- being deposited as interim compensation. The Appeal filed by the Applicants/Defendants is however dismissed by the Appellate Bench vide judgment and order dated 31 January 2026.

5) The Applicants are aggrieved by the concurrent findings recorded by the Trial and the Appellate Courts on the issue of default in payment of rent and have accordingly invoked revisional jurisdiction of this Court under Section 115 of the Code by filing the present Revision Application.

6) Mr. Lakhani, the learned counsel appearing for the Applicants submits that the Trial and the Appellate Courts have failed to appreciate

the position that the Applicants have deposited the entire arrears of rent together with interest and costs of Suits within permissible time limit under Section 15 of the MRC Act. That an amount of Rs.50,314/- has been deposited by the Defendants towards compliance with order dated 12 December 2011. That Plaintiffs never disputed the correctness of the amount deposited by the Applicants. That rent was regularly deposited by the Applicants in the Court during pendency of the Suit. Even during pendency of the Appeal, the rent has been regularly deposited by the Applicants. That the Trial Court, for the first time and at the time of passing of final judgment, has recorded a finding of the deficit amount of Rs.5,703/-. That the calculation surfaced for the first time in the impugned judgment of the Trial Court. That no opportunity was provided to the Applicants to justify as to how the computations are made by the Trial Court. That the Plaintiffs otherwise never created any dispute about amount of Rs.50,314/- deposited by the Applicants and in fact withdrew the same. That therefore the decree for eviction could not have been granted by adopting hyper-technical approach on account of the deficit of minuscule amount in making the deposit by the Applicants.

7) Mr. Lakhani further submits that amount of deficit is otherwise trifle and arose out of a *bonafide* calculation error and cannot be termed as default/ noncompliance warranting decree of eviction under Section 15 of the MRC Act. That the deposit was made by the Applicants as per computation made by the registry of the Small Causes Court and if there is any difference, the Applicants cannot be made to suffer due to computation error committed by the registry. He submits that even otherwise, amount of deficit is on account of *bonafide* mistake in calculation, which ought to have been ignored by the Trial Court. He

relies on judgment of the Supreme Court in ***Umesh Chand Gandhi V/s. IST Addl. Dist. & Sessions Judge, and Another***[1]. He submits that if amount of deficit is minuscule, the Court must ignore the same by refusing a decree for eviction.

8) Mr. Lakhani further submits that the Applicants were under *bonafide* impression that amount payable under order dated 12 December 2011 was only Rs.50,314/-. That arithmetical mistake in not intimating deficit amount of Rs.5,704.60 to the Defendants cannot entail a decree for eviction. That in any case, no opportunity was granted to the Applicants to explain their *bonafide* arithmetical mistake. He further submits that in any case, advance rent was deposited by the Applicants in respect of the period from January-2012 to June 2012. That the said amount of advance rent is required to be adjusted against deficit amount of Rs.50,314/-. He also invites attention of this Court to order passed in ***Sangita Ravindra Sathe V/s. Ramakant Tulshiram Salunke*** [2] wherein the principle under Section 15 of the MRC Act has been enunciated. That the ratio of the judgment is inapplicable to the present case since there is regular deposit of rent during pendency of the Suit. He therefore submits that findings recorded by the Trial and the Appellate Courts clearly warrant interference by this Court under Section 115 of the Code. He submits that decree is put in execution and accordingly application for amendment being Interim Application No.3466 of 2026 is filed. That once eviction decree is set aside, order passed in execution proceedings issuing warrant of possession also needs to be set aside.

1 (1994) 1 SCC 747

2 Civil Revision Application No.470 of 2020, decided on 27 November 2024

9) *Per contra,* Mr. Vyas, the learned counsel appearing for the Respondents/ Plaintiffs submits that concurrent findings have been recorded against the Defendants by the Trial and the Appellate Courts on the issue of default in payment of rent, which do not warrant interference in exercise of revisional jurisdiction by this Court. He submits that deposit of arrears of rent by the Defendants was not based on any computations made by the registry of the Small Causes Court. That Registry of the Small Causes Court is not expected to compute the amount of arrears of rent. That while depositing the amount, the Defendants need to file a praecipe giving the details of amount deposited by him/her and that there is no practice of the Registrar calculating the amount and directing the party to deposit the amount. That the Applicants deposited the amount as per their own calculations. He takes me through cross examination of DW1 to demonstrate that he gave a specific admission that deposit of rent was as per calculations made by the Defendants.

10) Mr. Vyas further submits that the advance rent for the period from January-2012 to June 2012 cannot be taken into consideration towards the amount of interest. That subsequent receipts would indicate that rent has been paid only for the month of July-2012 onwards. That if advance rent paid from January 2012 to June 2012 is adjusted towards interest liability, there would be default in payment of rent from January-2012 to June 2012. That therefore there is a default on the part of the Defendants when seen from any angle.

11) Mr. Vyas further submits that the rent from January-2012 to June 2012 @ Rs.845/-comes to Rs.5070/- and after deducting the amounts

towards arrears of rent, advance rent and costs of the Suit, the balance deposited amount was only Rs.5,704.60 whereas 15% interest is Rs.11,407/-. That even if advance rent of Rs.5,070/- is adjusted against interest amount, still there would be deficit of Rs.632.40 towards interest. Mr. Vyas submits that during pendency of the Appeal, there was default on the part of the Defendants, who did not deposit arrears of rent for about five years. The Appeal was filed on 7 June 2017 whereas application for deposit of rent was made for the first time on 12 July 2022. Mr. Vyas would accordingly submit that Defendants have repeatedly committed default in payment of rent and that therefore, no interference is warranted in the concurrent findings recorded by the Trial and the Appellate Courts. He would pray for dismissal of the Revision Application.

12) Rival contentions urged on behalf of the parties now fall for my consideration.

13) The Plaintiffs' suit for eviction has been decreed on the solitary ground of default in payment of rent. There is no dispute to the position that rent in respect of the suit premises was not paid from 1 April 2008 onwards. The Defendants raised the defence in written statement that the rent used to be paid to the original owner and after his death, Plaintiffs never approached the Defendants to collect the rent. The Defendants also raised a defence that the Plaintiffs refused to accept the rent when the same was offered /tendered by the Defendants. Be that as it may. The position remains that the rent in respect of the suit premises was not paid from 1 April 2008, which made the Plaintiffs to issue a demand notice dated 30 November 2009.

14) Considering the nature of the suit premises, which comprises of a commercial unit (*gala)* at Grant Road, Mumbai, the rent thereof is a minuscule amount of Rs. 845 per month. However, even that minuscule amount of Rs.845/- was apparently not paid by the Defendants during 1 April 2008 to 31 October 2009. Thus, rent for 20 months remained unpaid when notice dated 30 November 2009 was issued by the Plaintiffs.

15) The MRC Act gives a special protection to tenants and offers relief against forfeiture so long as the tenant pays or is ready and willing to pay the standard rent and permitted increases. A landlord cannot seek recovery of possession of tenanted premises so long as the tenant pays or is ready and willing to pay the rent and observes and performs the other conditions of tenancy, which are consistent with the provisions of the MRC Act. However, even if a default in payment of rent occurs, the tenant does not become straightaway liable for eviction. Section 15 of the MRC Act provides for mechanism for filing of suit for eviction and for passing a decree for eviction on the ground of default in payment of rent. Section 15 of the MRC Act provides thus:

> **15. No ejectment ordinarily to he made if tenant pays or is ready and willing to pay standard rent and permitted increases.**
>
> (1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the, standard rent and permitted increases, if any, and observes and performs the other, conditions of the tenancy, in so far as they are consistent with the provisions of this Act.
>
> (2) No suit for recovery of possession shall be instituted by a landlord against the tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of ninety days next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882.

> (3) No decree for eviction shall be passed by the court in any suit for recovery of possession on the ground of arrears of standard rent and permitted increases if, within a period of ninety days from the date of service of the summons of the suit, the tenant pays or tenders in court the standard rent and permitted increases then due together with simple interest on the amount of arrears at fifteen per cent per annum; and thereafter continues to pay or tenders in court regularly such standard rent and permitted increases till the suit is finally decided and also pays cost of the suit as directed by the court.
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> (4) Pending the disposal of any suit, the court may, out of any amount paid or tendered by the tenant, pay to the landlord such amount towards the payment of rent or permitted increases due to him as the court thinks fit.

16) Thus, under Section 15 of the MRC Act, a special protection is extended to a tenant, who commits default in payment of rent. The landlord cannot straightaway terminate a tenancy and file a Suit for eviction upon commission of default in payment of rent. The landlord first needs to issue a notice under Section 15(2) of the MRC Act demanding the arrears of rent. Upon receipt of notice under Section 15(2) of the MRC Act, the tenant can prevent eviction action by making good the default within a period of 90 days of receipt of demand notice. If the tenant still acts negligently and does not clear the arrears of rent within 90 days of receipt of notice, he gets one more opportunity of avoiding eviction action by performing two acts viz. (i) the tenant needs to deposit in the Court within 90 days of service of suit summons, the entire arrears of rent, interest @ 15% per annum and costs of the suit (ii) continue to deposit in the Court rent throughout pendency of the Suit. It is only after the tenant commits a default in either of the two acts, that the Court can pass a decree for eviction.

17) Thus, once a Suit for eviction on the ground of default in payment of rent is filed against the tenant, who has failed to avail first opportunity of making good the default after receipt of demand notice,

can avoid the eviction decree by depositing in the Court arrears of rent, interest and costs of the Suit and by continuing to deposit the rent throughout pendency of the Suit. This follows that when the entire amount of rent, interest and costs is not deposited within a stipulated period of 90 days or when the tenant, who has made the entire deposit, is irregular in depositing rent during pendency of the Suit, a decree for eviction becomes imminent.

18) Keeping in mind the above statutory scheme under Section 15 of the MRC Act, I now proceed to examine whether concurrent findings recorded by the Trial and the Appellate Courts, on the issue of default in payment of rent, warrant any interference in exercise of revisional jurisdiction of this Court under Section 115 of the Code.

19) In the present case, the rent in respect of the suit premises was admittedly not paid from 1 April 2008. The arrears of rent were not cleared even after issuance of demand notice under Section 15(2) of the MRC Act, which ultimately led to filing of the eviction Suit. One of the issues before the Trial Court was about valid service of demand notice dated 30 November 2009. The issue is answered in favour of the Plaintiffs and against the Defendants. The demand notice dated 30 November 2009 was dispatched through two postal modes of RPAD as well as 'Under Certificate of Posting'. The Plaintiffs also employed the third mode of pasting the notice on outer door of the suit premises on 7 January 2010. Both, the Trial as well as the Appellate Courts have recorded concurrent findings on the issue of valid service of demand notice dated 30 November 2009. Mr. Lakhani has not advanced any submissions demonstrating any error on the part of the Trial Court or Appellate Court

in deciding the said issue. Thus, demand notice under Section 15(2) of the MRC Act was validly served on Defendants/tenants, who chose not to clear arrears of rent within a period of 90 days.

20) After the Suit was filed and writ of summons was served on 27 September 2011, second opportunity became available to the Defendants to avoid decree for eviction under Section 15(3) of the MRC Act. To avail the second opportunity, it was incumbent for the Defendants (i) to deposit in the Court entire arrears of rent, interest @ 15% per annum and costs of the Suit within a period of 90 days (ii) to continue to deposit the rent throughout pendency of the Suit. The Defendants decided to avail the second opportunity under Section 15(3) of the MRC Act for avoiding decree for eviction. Accordingly, they filed Application dated 9 December 2011 seeking permission of the Small Causes Court to deposit arrears of rent from 1 April 2008 till December-2011 @ Rs. 845/- amounting to Rs.38,025/- together with interest and costs. The relevant portion of the application at Exhibit-11 is as under:

> 2. I say that without admitting any of the averments regarding non-payment of rent, I am ready and willing to deposit the entire arrears of rent from 1st April, 2008 till December, 2011 at the rate of Rs.845/- per month alongwith interest at rate of 15% and cost of the suit. I therefore submit that this Hon'ble Court be pleased to allow and permit me to deposit the rent as stated above i.e. from April, 2008 till December, 2011 at the rate of Rs.845/- amounting to Rs.38,025/- together with interest and cost and further order depositing rent every month thereafter.

21) The Plaintiffs gave no-objection for allowing the application without prejudice to their rights and contentions and prayed for withdrawal of deposited amount of rent. The application at Exhibit-11

was allowed by order dated 12 December 2011, the operative portion whereof reads thus:

> 1. The Application at Exhibit-11 is hereby allowed.
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> 2. The defendants are hereby permitted to deposit in the Court the entire arrears of rent from 01.04.2008 till December 2011 @ Rs.845/- per month, amounting to Rs.38,025/- together with interest @ 15% per annum and costs of the suit and also permitted to deposit subsequent rent from January, 2012 @ Rs.845/- per month after completion of 15th day of every month.
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> 3. The plaintiffs are hereby permitted to withdraw the aforesaid amount as and when deposited by the defendants in the Court.

22) Thus, as per the calculations made by the Plaintiffs, the arrears of rent from 1 April 2008 to 31 December 2011 @ Rs.845/- per month was Rs.38,025/-. On that amount, 15% interest per annum and costs of the Suit were also required to be deposited. On 15 December 2011, the Defendants deposited amount of Rs.50,314/- which comprised of (i) arrears of rent from 1 April 2008 to December 2011 (ii) 15% interest (iii) costs of the Suit and (iv) rent from January-2012 to June 2012. The receipt dated 15 December 2011 also reflects the said four subheads of deposited amount.

23) The Trial Court has conducted an enquiry as to whether amount of Rs.50,314/- satisfied the requirement of deposit of entire arrears of rent with 15% interest and costs of the Suit. The Trial Court first deducted amount of Rs.5070/-, being advance rent @Rs.845/- from January to June 2012, which was unnecessarily deposited by the Defendants. The Trial Court also deducted the amount of rent from 1 April 2008 till December 2011, which was Rs. 38,025/-. After deducting amount of arrears of rent and advance rent from January to June 2012, the balance remained at

Rs.7,219/-. From that amount, the Trial Court deducted the amount of costs of the Suit of Rs.1514.40 leaving behind the amount of Rs.5704.60. However, this amount of Rs.5704.60 was found to be insufficient to satisfy requirement of interest @15% per annum from the date of service of demand notice, which amount came to Rs.11,407/-. Thus, deficit amount was found of Rs.5702.40. The Trial Court has thus arrived at a conclusion that amount of interest @15% per annum was not deposited within 90 days of service of suit summons by the Defendants.

24) The Defendants attempted to impress upon the Trial Court that amount of advance rent from January 2012 to June 2012 could have been adjusted against the deficit amount of interest. Even before me, the said plea is raised. However there are two difficulties for the Defendants in accepting the said submission. The amount of advance rent from January to June 2012 was Rs.5070/- whereas the deficit amount of interest is Rs.5702.40. Therefore, even if advance rent amount is adjusted, there would still be deficit amount of Rs. 634.60. However, this is comparatively smaller difficulty for the Defendants. The bigger difficulty in adjusting amount of advance rent from January 2012 to June 2012 towards outstanding interest is leaving a vacuum in respect of the period from January to June 2012. This is because after making the deposit of Rs.50,314/- on 15 December 2011, the Defendants made further deposit of Rs.3380/- on 25 April 2012, which was towards rent from July-2012 to October-2012. Therefore, if advance rent from January to June 2012 is adjusted against outstanding interest amount, there would be no rent deposited in respect of the period from January to June 2012. Thus, adjustment of advance rent from January to June 2012 against outstanding interest liability does not prevent the eviction decree. Such

adjustment cannot be made as the same would create default in payment of rent from January to June 2012. Secondly, adjustment still leaves behind deficit amount of Rs.632.40(634.60).

25) Faced with the above difficulty, Mr. Lakhani has submitted that the deficit amount of Rs.5702.40 is not significant and that the same arises out of a calculation error. It is therefore, contended that the difference amount needs to be ignored. Reliance is placed on judgment of the Apex Court in ***Umesh Chand Gandhi*** (supra). In the case before the Hon'ble Apex Court, a sum of Rs.2,048/- was due and which was required to be deposited, against which amount of Rs.1,944/- was deposited leaving behind deficit of Rs.104. In that context, the Apex Court has held in paragraphs 2 and 3 as under:

> 2. Section 39 confers right on the tenant to absolve his default and save his tenancy provided he complied with the conditions prescribed therein, namely, deposit of arrears into the court should be made within one month from the date of the commencement of the Act or from the date of his knowledge of pendency of the suit whichever is later: (1) the entire amount of rent and damages for use and occupation; (2) with interest @ 9 per cent annum; and (3) the landlord's full cost of the suit. On compliance thereof the court is enjoined not to grant decree for eviction except on any other grounds mentioned in proviso to sub-section (1) or in clauses (b) to (g) of sub-section (2) of Section 20. Thus Section 39 gives further opportunity to the defaulting tenant to tender into the court the aforesaid sum to save his tenancy within the time envisaged therein lest he would be liable to ejectment. Therefore, the Division Bench has rightly pointed out that the theory of substantial compliance is not a compliance of Section 39. But when there is a bona fide mistake in calculation, the burden is on the tenant to establish by adduction of evidence his bona fide in committing the mistake. On the court's satisfying that the tenant committed bona fide mistake in computation of the three components referred to earlier or any one and there is a default in compliance thereof, if the amount in deficit is small, court would ignore the said mistake applying de minimis principle and refuse decree for eviction. Therefore, the tenant has to act in good faith. The mistake in calculation must be due to the above bona fide mistake. It is settled law that the courts of justice generally do not take trifling

and immaterial matters into account except under peculiar circumstances. The strictness or harshness or inflexibility would lead to injustice or miscarriage of justice. Therefore, in working out equities, the court would apply in general the maxim "de minimis non curat lex". The Division Bench, therefore, rightly pointed out that the doctrine deserves extension giving the benefit to the tenant, but it is a question of fact to be decided in each case. Bona fide mistake may occur in myriad circumstances but it depends upon each case. Neither rigid nor exhaustive nor inflexible rule could be laid cutting its amplitude into mathematical formula, in which event also it would lead to miscarriage of justice or injustice. Accordingly we find that the Division Bench has rightly left the question to the discretion of the courts under the Act to consider in each case in the given facts and circumstances whether non-compliance was bona fide and was a trifle, and then to grant relief accordingly.

3. Though the learned counsel for the appellant sought to contend that the case would require consideration at the hands of this Court, we find no justification to put the compliance of Section 39 in a strait-jacket formula. Each case has to be considered on its own facts and it is for the courts below to consider and decide on the basis of factual matrix. In this case the High Court found that a deficit of Rs 104 is not a trifle. In the facts and circumstances, it calls for no interference by this Court. The appellant has been in possession of the demised premises for commercial use as a shop. It is agreed by the parties across the bar that the appellant be given two years time from today for use and occupation of the demised premises. We approve of the consensus. The appellant shall pay the market rent from October 1, 1993. The learned District Munsif is directed to determine the prevailing market rent within a period of two months from the date of receipt of this order. On such determination the appellant shall pay the same without taking any further judicial remedy of an appeal, a revision or a writ petition under Article 226 of the Constitution. He should pay the arrears within one month from the date of the determination of the market rent to the respondent against receipt or on his refusal to deposit the amount to the credit of the suit till he vacates the premises. The present rent shall be continued to be paid till the date of determination of the market rent. Arrears, if any, as on date shall also be deposited within a period of two months from today. If there is any default in payment of rent for two successive months, it is open to the respondent to have the decree executed. The appellant shall file usual undertaking in this Court within a period of six weeks from today. The appeal is disposed of accordingly. No costs.

26) Thus, even in ***Umesh Chand Gandhi*** (supra) the Apex Court has refused to treat deficit of Rs.104/- to be trifle amount. In the present

case, deficit amount is Rs.5,702.40, which cannot be treated as insignificant by any stretch of imagination. Considering monthly rent of Rs.845/-, ignoring the deficit of Rs.5,702.40 would mean nonpayment of rent for a period of more than six months. In my view, therefore, deficit amount of Rs.5702.40 cannot be treated as trifle or insignificant. Therefore, reliance by Mr. Lakhani on judgment in ***Umesh Chand Gandhi*** (supra), far from assisting the case of the Applicants, actually militates against them. In my view, therefore, the Trial Court has rightly decreed the Suit after noticing that entire amount of rent, interest and costs was not deposited.

27) In ***Sangita Ravindra Sathe*** (supra) as well, this Court has highlighted the importance of depositing the entire amount of rent, interest and costs. This Court referred to its judgment in ***Laxman V/s. Dr. Vijay Bhojraj Khachane***[3] and has held in paragraph 5 of the judgment as under:

> 5) Thus, for avoiding the decree for eviction, it was incumbent for Defendant to first pay to the Plaintiff the arrears of rent demanded in the Notice served in accordance with provisions of Section 15(2) of the MRC Act. It appears that Plaintiffs served notice dated 28 February 2012 on the Defendant alleging non-payment of rent from 1 July 2011 to 31 January 2012 at the rate of Rs.1,000/- per month (total amount of Rs.7,000/-). The Defendant admittedly did not make good the default while responding to the notice on 4 April 2012. After receipt of the suit summons, Defendant filed application at Exhibit 11 seeking deposit of amount of Rs.19,168/- towards arrears of rent together with interest at the rate of 9%. The amount of Rs. 19,168/- comprised of Rs.17,000/- towards arrears of rent from 1 July 2011 to December 2012 and Rs.2,168/- towards interest at the rate of 9% per annum. The arrears of rent from 1 July 2011 to December 2012 was actually Rs.18,000/- and not Rs.17,000/-. Thus, the entire arrears of rent upto December 2012 are admittedly not deposited. Furthermore, while provisions of Section 15(3) require deposit of interest at the rate of 15% per annum, Defendant deposited interest at the rate of 9% per annum. Thirdly Defendant did not deposit costs of the suit. Thus,

3 (2023) 2 Bom CR 825

there is no compliance with the provisions of Section 15(3) of the MRC Act. In Laxman Vs. Dr. Vijay Bhojraj Khachane1, this Court has taken a view that what needs to be deposited is whole rent and failure to deposit interest would also entail passing of decree for eviction. This Court held thus:

> 17. Thus, in Yusufbhai Noormohammed Jodhpurwala (supra) the total arrears of rent at the rate of 70/- per month was Rs. 7,070/- and the amount of rent deposited in the court was Rs. 6,860/-. The deposited rent was short by Rs. 270/-. The Supreme Court has held that the High Court in that case erred in interpreting the provisions of Section 12 (3)(b) purposively on the basis of readiness and willingness on the apart of the tenant to pay rent and such interpretation was erroneous. The Apex Court has held that the provisions of Section 12 (3)(b) are mandatory in nature and must be strictly complied with. Thus, from the judgment of the Apex Court in Yusufbhai Noormohammed Jodhpurwala (supra) it is clear that what is required under the provisions of Section 12 (3) of the Act is to deposit 'whole rent' and not part of it. Mere readiness and willingness on the part of the tenant to deposit rent by making part deposit would not satisfy the requirements of Section 12(3) of the act.

18. In Balaji Pratapji Pandya (supra) this Court was dealing with a situation where the provisions of Section 15 (3) of the Maharashtra Rent Act requires deposit of amount of arrears along with interest at the rate of 15%, whereas the tenant had deposited such arrears with interest at the rate of 9%. This Court held in para 17 of the judgment as under:

> "17. In the present case also, the condition enumerated in section 15(3) of the Maharashtra Rent Act are not strictly complied with. The deposit of the amount of arrears of rent is not with per annum interest @ 15% so also it is not within 90 days from the service of suit summons. Provisions of section 15(3) of the Maharashtra Rent Act are mandatory. The protection under section 15(3) of the Maharashtra Rent Act is available to tenant only if the tenant scrupulously adheres to the provisions of section 15(3) of the Rent Act. The Court has no jurisdiction to extend the time prescribed in the said section. The tenant herein has failed to deposit the rent within 90 days from the date of service of notice so also has failed to deposit the said amount with interest @ 15% per annum. The amount deposited after lapse of 90 days from the date of service of summons is also not with interest 15% per annum but is deposited only with interest @ 9% per annum. Both the ingredients of section 15(3) are not complied."

> **19. Thus, even failure to deposit amount of interest at the rate provided for in the Act can lead to a decree of eviction.**
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> (emphasis added)

28) In the present case, Defendants did not deposit the entire amount representing the arrears of rent, 15% interest and costs of the Suit. In that view of the matter, passing of decree for eviction against the Defendants became imminent. To make the case of the Defendants worst, there was default on their part in depositing the rent during pendency of the Appeal. As observed above, the Defendants deposited only the amount of interim compensation of Rs.18,000/- during pendency of the appeal. The normal rent of Rs.2,000/- fixed vide order dated 7 June 2016 was admittedly not deposited for a long period of five years from 7 June 2017 till 12 July 2022. The rent @Rs.2,000/- per month was ultimately deposited on 25 August 2022. Thus, there was default in payment of rent for 5 long years during pendency of the Appeal.

29) For a landlord giving his property on rent to a tenant, the amount of rent is the only source of income for maintaining the property. Due to application of provisions of the MRC Act, landlords are required to tolerate the presence of tenants unless one of the grounds enumerated under Sections 15 and 16 of the MRC Act can be made out. Because of prohibition on increasing the rent, the amount of rent becomes so ridiculously low that the same nowhere comes near to market rent payable in respect of similar premises. In such circumstances, the least that is expected from a tenant is to ensure that there is no default in payment of rent. The tenant, who does not want to pay/ deposit even the insignificant amount of rent must face decree for eviction.

30) In the present case, the Defendants have been negligent in not paying /depositing rent in respect of the suit premises. They defaulted in payment of rent, which led to issuance of demand notice. Despite receipt of demand notice, they failed to avail the second opportunity by not depositing in the Court the entire amount representing arrears of rent, interest and costs of the suit. There was a substantial deficit of Rs.5702.40. The amount cannot be ignored as insignificant or trifle. In my view, therefore, both the Courts have rightly accepted the ground of default in payment of rent. The Defendants are also found to be negligent in paying /depositing rent for a period of five long years from 2017 to 2022. In such circumstances, the law requires that tenant committing default in payment of rent is evicted from the suit premises.

31) Considering the above position, I do not find any valid ground to interfere in the concurrent findings recorded by the Trial and the Appellate Courts on the issue of default in payment of rent. The Civil Revision Application is thus devoid of merits and the same is accordingly **dismissed.**

32) With the dismissal of the Civil Revision Application, nothing would survive in the pending Interim Applications, which are also disposed of.

[SANDEEP V. MARNE, J.]

33) After the judgment is pronounced, the learned counsel appearing for the Applicants prays for continuation of interim order dated 5 May 2026. The learned counsel appearing for the Respondents

points out that the interim compensation fixed by the Appellate Court has not been deposited after dismissal of the Appeal. Subject to deposit in this Court of the entire amount of interim compensation from the date of decision of the Appellate Court within a period of 2 weeks, the interim order dated 5 May 2026 shall continue to operate for a period of 8 weeks. The Respondents would be at liberty to withdraw the entire deposited amount of interim compensation after expiry of period of 8 weeks.

[SANDEEP V. MARNE, J.]