

IN THE SMALL CAUSES COURT AT MUMBAI
ORDER BELOW EXHIBIT -21
IN
R.A.E. & R. SUIT NO. 690/ 1101 OF 2013

1) Cowasjee Dinshaw Trust Public Trust & Ors. ...Plaintiffs
V/s.

1) Under Secretary Govt. of Maharashtra & Ors. ...Defendants

Shri. J.P. Thakkar :Advocate for plaintiffs.
Shri. D.J. Walavalkar :Advocate for defendant No.2 & 3.

Coram :B.D. Kadam,
Judge, C. R. No. 6
Date : 29.07.2016

ORDER

1. This is an application filed by defendant No. 3 for depositing rent in the court.
2. It is submitted that plaintiffs have filed the suit for recovery of rent and possession of the suit premises. Defendant No.2 and 3 are government departments and both are using and occupying the respective premises. Defendant No.3 had sent rent of the premises alongwith letter but same is returned. Therefore, defendant No.3 wants to deposit the rent in the court. Hence the application.
3. Plaintiffs have resisted the application by filing say at Exhibit – 22. According to the plaintiffs, this court has framed

issues and matter is fixed for hearing. Defendants are defaulters in payment of rent and statutory notice was also issued. Plaintiffs have filed this suit on the ground of default in payment of rent. Therefore, at this stage rent cannot be accepted. Moreover, rent was not sent by cheque and never refused by the plaintiffs. Therefore, at this stage defendant No.3 has no right to deposit the same. Therefore, plaintiffs have prayed for rejection of this application.

4. Perused the application and say.
5. This is a suit for recovery of possession of the suit premises and rent. According to the defendant No.3 cheque of arrears of rent amount was sent but it was returned unpaid. He has not committed any default in payment of rent. Plaintiffs have alleged that there is default on the part of defendant No.3 and that is why plaintiffs have opposed to allow this application.
6. This court has framed issues and burden casted upon the plaintiffs to prove any default in paying rent committed by defendant No.3. Said issue will be decided on the merit but at this stage depositing the rent by defendant No.3 will not harm to the plaintiffs. Moreover, section 15(3) of Maharashtra Rent Control Act says that no decree can be passed on the ground of arrears of rent when the rent is deposited in the court within three months from the date of the service of summons. Whether there is any default on the part of the defendant No.3 it will be decided at the time of final hearing. But at this stage depositing the rent in the court will not prejudice the rights of the plaintiffs. Therefore, application deserves to be allowed.

Hence the order.

ORDER

Application is allowed and defendant No.3
is permitted to deposit the arrears of rent in
the court as prayed.

Sd/-

Mumbai.

Date : 29.07.2016

Dictated on :29.07.2016

Transcribed on :01.08.2016

Checked & signed on :02.08.2016

[B.D.Kadam]

Judge, C.R. No.6