

**CNR NO. : MHSCA2-001756-2013**

**IN THE COURT OF SMALL CAUSES MUMBAI**

**ORDER BELOW EXHIBIT 32**

**IN**

**R.A.E.&R. SUIT NO.690/1101 of 2013**

1) Cowasjee Dinshaw Trust & Ors. ... Plaintiffs

v/s

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

Advocate for the Plaintiffs : J. P. Thakkar  
Advocate for the Defendants : D. J. Walavalkar

**Coram : Shri. S. B. Joshi**  
**Judge, C.R. No.06**  
**Date : 15.12.2018**

**ORDER :-**

Read application filed by the defendant No.2 praying for allowing them to deposit the monthly rent from July, 2018 to December 2018 by condoning the delay in depositing the same as per order of this Court.

2. According to defendant No.2, as per order dated 29/07/2016 passed below Exhibit 21, their office has regularly deposited the rent till June, 2018. However, due to internal transfers in their department in the month of June, 2018, the concern officer who is looking after the matter more particularly deposited as and when due, was transferred with immediate effect. Thereafter, present applicant has

been asked to take charge of that official. After taking charge, the applicant required some time to get conversant with the present matter as well as status and therefore, he could not prepared the bill and send it to the pay and account department within time as certain procedure along with rules were required to be followed in order to comply the order of the Court as regard rent to be deposited. Thus, on preparing the bill for the rent, it came to be sanctioned in the month of August, 2018. When the applicant went to deposit rent from July 2018 to December 2018, the office denied to accept the same as there was delay and it is not condoned by the Court. So, the applicant requires permission for depositing the monthly rent from July 2018 to December 2018. There being delay, it has to be condoned for the above said reason.

3. The plaintiffs objected this application by filing say on the overleaf of the application on the ground that no sufficient and reasonable cause has been given to consider the present application and therefore, it require to be dismissed with costs.

4. Heard the Ld. Counsel for the defendant No.2 and plaintiffs. In view of the rival contentions and facts on record, following points arise for the determination of the Court and my findings thereon are given against each of them as under :-

**SR.**

**POINTS**

**FINDINGS**

**NO.**

1. Whether the delay in depositing the rent from July 2018 to December 2018 is required to be condoned ?

In the affirmative .

2. If yes, what shall be the order ? As per final order.

**:: REASONS ::**

**As to Point Nos.1 to 2 :-**

5. At the outset, plaintiffs have not disputed or denied the status of defendants and the alleged grounds which resulted causing delay in moving this application as well as to deposit the rent, as per the order of the Court. The perusal of the order below Exhibit 21 shows that the as per the provision of Section 15 (3) of the Maharashtra Rent Control Act, the defendants have been permitted to deposit the rent without causing prejudice to the rights and contentions of the parties. Since, the defendants have been permitted to make deposit of rent, the very contention of the plaintiffs that this application requires to be rejected cannot be straight away rejected. The reason is that the averments in this application are made on verification on behalf of the defendants which clearly shows that due to transfers of the officials of the defendants looking after this litigation so far as depositing the rent is concerned, the official who succeeded that official required some time to get conversant with the facts of the case and accordingly arrange for making bill for the rent due and submitting the same for sanction with the pay and account department. Here, this fact has to be considered and judicial note of the same shall have to be taken while considering this application. The proposed grounds causing delay in moving this application for making deposit of future rent appears trustworthy and therefore, it has to be considered. Secondly, it is also settled position that law of limitation does not prohibit tenant from making payment even if it is time barred. So having regard to all this, the delay in

moving this application for making deposit of rent for the period July, 2018 to December, 2018 has to be condoned. Therefore, finding to point No.1 is given in the affirmative.

6. In view of aforesaid reasoning and findings to point No.1, the present application deserves to be allowed without imposing any cost. As such point No.2 is answered as per the following order.

**:: ORDER ::**

1. The application Exhibit 32 filed by the defendant No.2 is allowed and delay in depositing the rent from July, 2018 to December 2018 is condoned.
2. The defendant No.2 is also allowed to make deposit of rent for the above said period on or before 29/01/2019.
3. No order as to costs.

**Mumbai**

**Date : 15/12/2018**

**(S. B. Joshi)**

**Judge, C.R.No.06**

Order dictated on : 15/12/2018

Order transcribed on : 15/12/2018

Order checked & signed on : 15/12/2018