

[CNR NO.MHSCA-200-18272021]

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT - 16

IN

R.A.E &amp; R. SUIT NO.245 OF 2022

Smt. Shantabai Vitthal Meshram

: Plaintiff

V/s.

1. Mr. N. G. Narwade

: Defendant

**Appearance:-**

Learned advocate for the plaintiff :Tiware Ajay K.

Learned advocate for the defendants : Shinde Ashok B.

Coram : S.G. Kore, Judge,  
Court Room No.15,

Date : 02.03.2024

**ORDER:-**

The present application is filed by plaintiff for withdrawal of rent.

**2. Brief facts of the application is as under:-**

The suit is filed against the defendants for eviction on the grounds of arrears of rent and subletting. The defendant has filed written statement and filed application at Exh.10 for depositing arrears of rent. Same is allowed by order dated 06.02.2023. The defendant deposited rent in the Court. The plaintiff is retired lady and depend on income on rent received from the suit premises for livelihood. Therefore requested to allow the application.

3. The defendant resisted the application by filing say at Exh.17. The application is not maintainable in eyes of law. The suit is filed without obtaining prior permission of Section 22 of Maharashtra Slums Clearance Act. The suit is not maintainable. The suit premises is covered under Slums Act. As per Section 23 of Slums

Act no person shall collect rent, compensation of other charges by threatening and causing any injury to his personal reputation of property whom the occupier is interested. The defendants have annexed the copy of government gazette. The plaintiff is not entitled to recover the rent from the tenants. If the suit will dismissed on the ground of maintainability it will difficult to recover the said amount from the plaintiff. Therefore requested to reject the application.

4. The learned Advocate for the plaintiff submitted that there is no provision to retain the rent under Maharashtra Rent Control Act. The plaintiff has filed the application for withdraw the rent amount. The plaintiff has produced the document on evidence to show that the suit property is not covered under the slums Act already other identical matters application for withdrawal of rent is allowed. therefore requested to allow the application.

5. The learned Advocate on behalf of defendant submitted that the suit premises is declared as slums. In view of Section 22 previous permission is not taken. In view of Section 23(a) plaintiff is not entitled to recover the rent from the tenant. The defendant has produced the notification regrading the slum. In case the suit will be dismissed on the ground of maintainability it will difficult to plaintiff to recover the rent amount. Therefore requested to reject the application.


6. perused the application, say and documents on record. The plaintiff have filed five identical suit for eviction on the ground of arrears of rent. Wherein the defendant has filed the application for depositing rent. Same is allowed by my Predecessor. According to the defendant, they have deposited the rent in the Court. The suit premises is covered under Slums and to that regard produced the

notification. The plaintiff has also filed copy of RTI which reveals that the suit property is not covered under slums Act. Whether the suit property is covered under the Slums or not it will be decided at the time of final hearing of the suit. In some identical suit already my predecessor allowed application for withdrawal of rent. Therefore the application deserves to be allowed. Hence I pass the following order.

**:: ORDER ::**

1. The application is allowed.
2. The plaintiff is permitted to withdraw the rent amount deposited by the defendant in the Court.

Mumbai  
Date : 02.03.2024

  
(S. G. Kore)  
Judge, C.R. No.15

