

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.5440 OF 2016
IN
WRIT PETITION NO.3499 OF 2002

SHAMSUNDAR @ SHAMLAL NANAKRAM
AHUJA AND ANOTHER

APPLICANTS

VERSUS

SOMAIYA ORGANO CHEMICALS LTD.,
AND OTHERS

RESPONDENTS

Mr.R.L.Kute h/f Mr.V.R.Dhorde, Advocate for the applicants.
Mr.S.D.Kulkarni, Advocate for respondent Nos. 1 to 11.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/04/2016

PER COURT :

1. The applicants submit that their application filed before the Trial Court in disposed of RCS No.320/1989 for depositing the rent, has been rejected since the Trial Court held that the applicants were not on record as LR's of the deceased tenant Shamsundar @ Shamlal Nanakram Ahuja.

2. Mr.Kute, learned Advocate submits that by order dated 26/02/2016 passed by this Court in CA No.1243/2016, the applicants have been permitted to be brought on record as LR's of the deceased. He, therefore, submits that the rent for the period

01/01/2016 to 31/12/2016 sought to be deposited before the Trial Court by the applicants, may be permitted.

3. Mr.S.D.Kulkarni, learned Advocate appearing on behalf of the non-applicants submits that the applicants have committed a default in not depositing the rent in time. He further submits that the conditions imposed by this Court indicate that if the default occurs on two occasions in making the deposit, the stay granted by this Court would be vacated. He, therefore, submits that this application is without any merit and deserves to be dismissed. He further submits that the writ petition be heard finally as it is pending for 14 years.

4. I have considered the submissions of the learned Advocates.

5. The applicants have been brought on record considering the fact that the original tenant Shamsundar Nanakram Ahuja has passed away and hence the Trial Court did not permit the applicants' LR's to deposit the amount as they were not on record. I, therefore, do not find that there is a willful default committed considering the fact that the deceased has passed away in 2014 and the LR's may not be aware of the intricacies of this litigation.

6. As such, without prejudice to the rights and contentions of the litigating sides, the applicants are permitted to deposit the rent amount before the Trial Court on or before 07/06/2016 considering the vacations of the Trial Court from 01/05/2016 till 05/06/2016.

7. This application is, therefore, allowed.

8. By consent of the parties, list WP No.3499/2002 for final hearing on 16/06/2016.

(RAVINDRA V. GHUGE, J.)