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- (c) order dated 12/02/2015 by which the Petitioner's revision against the Order dated 28/08/2014 was dismissed by the Revisional Court.

4. The Petitioner-Plaintiff was examined through PW 1 in R.A.E. & R. Suit No.630 of 2010. Thereafter, the Petitioner applied for summons to BMC official to depose in the matter. Such summons was, in fact, issued. However, the BMC official did not attend the matter on the appointed date. The Petitioner also, it appears, did not take appropriate steps in the matter of ensuring the presence of the BMC official. Several dates had to be granted in the matter until finally, the Trial Court ordered the closure of Plaintiff's evidence. The application at Exh.44 seeking a recall of the order dated 22/01/2014 was dismissed by observing that the Petitioner had failed to take diligent steps in the matter. The Revisional Court, by its order dated 12/02/2015, has declined to interfere with the Trial Court's order dated 28/08/2014.

5. Although, the Petitioner could have been more diligent in the matter, the order closing the Petitioner's evidence does appear to be too harsh in the facts and circumstances of the present case. The Petitioner had applied for summons and such summons had also been issued to the BMC official. If the BMC official did not appear in pursuance of the summons, then blame cannot be apportioned upon the Petitioner. Thereafter, it was for the Petitioner to take out appropriate application or proceeding for ensuring the compliance of

the summons issued by the Court. It is clear that the Petitioner has not been very diligent in the matter. However, considering that the Petitioner is the landlord, who would himself be prejudiced due to delay, it would be appropriate that one more opportunity is granted to the Petitioner to take diligent steps in the matter which shall, of course, be subject to the Petitioner paying costs of Rs.5,000/- to the Respondent No.1 who appears in this Court through Advocate.

6. Accordingly, the aforesaid impugned orders are set aside. This shall be subject to payment of costs of Rs.5,000/- by the Petitioner to the Respondent No.1. The costs to be paid or deposited within a period of two weeks from today. The Trial Court to once again issue summons to the BMC official to remain present and take such further steps as may be necessary for the purposes of ensuring compliance with the summons. The Petitioner is also required to take diligent steps in the matter of ensuring the presence of the witness.

7. Rule is made absolute to the aforesaid extent.

8. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)