

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY**

BENCH AT AURANGABAD.

**REVIEW APPLICATION NO.147 OF 2015
IN
CIVIL REVISION APPLICATION NO.44 OF 2012.**

1. Salim Hajikhan Pathan,
Age 42 years, Occ.Business,
2. Nazir S/o Hajikhan Pathan,
Age 39 years, Occ.Business,
3. Ayub S/o Hajikhan Pathan,
Age 36 years, Occ.Business,
4. Azam @ Pasha S/o Hajikhan
Pathan, Age 34 years, Occ.
Business.
5. Taherkhan S/o Hajikhan Pathan,
Age 33 years, Occ.Business,
All R/o Tophkhana, Hingoli,
Tq. and Dist.Hingoli. ... Applicants.

Versus

1. Subhash S/o Shantilal Bagadiya,
(Chawadiwala), Age 54 years,
Occ.Nil.
 2. Manoj S/o Shantilal Bagadiya,
(Chawadiwala), Age 27 years,
Occ. Nil,
- Both R/o Sadar Bazar, Hingoli,

Dist.Hingoli.

3. Hajifa d/o Hajikhan Pathan,
Age major, Occ.Household.

4. Munni d/o Hajikhan Pathan,
Age 40 years, Occ.Business,
Both R/o Tophkhana, Hingoli,
Dist.Hingoli.

5. Rent Controller,
Hingoli. ... Respondents.

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Mr.H.I.Pathan, advocate for the Applicants.
Mr.S.P.Sonpawale, A.G.P for the State.
Mr.S.S.Rathi, advocate for Respondent Nos.1 and
2.

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CORAM : S.V.GANGAPURWALA, J.

Date : 05.04.2016.

PER COURT :

1. The present Review Application is filed seeking review of the order dated 1.3.2012, dismissing the Revision.

2. Mr.Pathan, learned counsel for the Review Applicants submits that the decree for eviction was passed on the ground of bonafide requirement and willful default by the Rent

Controller and the Appellate Court. This Court negatived the decree on the ground of bonafide requirement, however, confirmed the decree on the ground of willful default. By filing Revision, the Review applicant could not file the copies of the money orders issued in the year 1992-93 and 1996. The said money orders would cover the entire period from 1992-96. According to the learned counsel, because of mistake of the advocate, the said receipts could not be filed. The petitioner is running a small tailoring shop in 6x7 ft. The receipts if allowed to be produced on record, the same being relevant would disprove the case of the landlord. According to the learned counsel, for the default of the advocate, the litigant may not suffer.

3. I have heard Mr.Rathi, learned counsel for the Respondents.

4. The decree of eviction is passed on the ground of willful default. The amount of Rs.1,675/- was due and payable by the tenant as per the contention of the landlord. The said

contention is accepted by the Rent Controller as well as District Court. The xerox copies of money orders which are sought to be placed on record were not filed either before the Rent Controller nor before the District Court in appeal nor in Revision before this Court. Even there is no proof of the landlord having received this amount or encashed this amount of money orders. Be that as it may, the said copies produced are also xerox copies. There is also no evidence to show that the amount was tendered for the period 1992-96. The judgment of the Courts below suggest that the amount due and payable was tendered after filing of the suit. The benefit of which would not be available to the petitioner.

5. Considering the above, no ground for review is made out. The Review Application is rejected. No costs

(S.V.GANGAPURWALA, J.)

