

IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.325 OF 2015

IN

CIVIL REVISION APPLICATION (ST.) NO.34490 OF 2015

(Jaibunisa Kallu Khan and others Vs. Suman Krishna More (decd) through heirs and another)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
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Mr. R. S. Alange i/b. Mr. Nitin P. Dalvi for Applicants.
Mr. Sandip R. Khurkute for Respondents.

CORAM : R. G. KETKAR, J.

DATE : 23RD JUNE, 2016

P.C.:

Not on Board. At the request of Mr. Alange, taken up in the production Board.

2. Heard Mr. Alange, learned Counsel for applicants and Mr. Khurkute, learned Counsel for respondents.

3. This is an application for recalling the order dated 23.02.2016 whereby this Court was pleased to dismiss the C.R.A. for non-prosecution. In that order, it was recorded that on 16.02.2016, none appeared for the applicants and the matter was kept on 23.02.2016 as a last chance. Even on 23.02.2016, as none appeared on behalf of the applicants, Court was constrained to dismiss the C.R.A. for non-prosecution.

4. Mr. Alange submits that applicants have deposited

the rent upto December 2015 and before the next date of hearing, applicants will deposit the arrears of rent from 01.01.2016 to 30.06.2016 in this Court under intimation in writing to the Advocate for respondents. He further states that applicants are in possession and nobody else is in possession of the suit premises. They have not created third party interest as also not parted with possession and that they will hereafter neither create third party interest nor part with possession of the suit premises.

5. In view of these statements and for the reasons stated in the application, Civil Application is allowed in terms of prayer clause (a) with no order as to costs. C.R.A.(St.) No.34490 of 2015 is restored to the file of this Court. Mr. Alange further assures that before the next date of hearing, applicants will remove all the office objections.

6. In view thereof, list the C.R.A. on 11.07.2016 under the caption 'for dismissal'. Till next date, subject to the applicants neither creating third party interest nor parting with possession as also depositing arrears of rent in this Court in the above terms, there shall be ad-interim order in terms of prayer clause (c) of C.R.A. It is made clear that in case the applicants do not deposit the arrears within the stipulated period, the ad-interim order shall stand vacated without further reference to the Court.

(R. G. KETKAR, J.)