

BDPPS

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

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**REVIEW PETITION NO.33 OF 2016**

**IN**

**WRIT PETITION NO.1498 OF 2015**

M/s Komal Developers

.... Petitioners.  
(Orig. Respondent No.4)

V/s

Nathulal Kapporchand Jain  
and Others

.... Respondents.

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Ms. Yasmin E. Tavaría for the Petitioners.

Mr. Altaf Khan i/b Ms. Anjali Awashti for the Respondents.

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**CORAM: V.M. KANADE &  
B.P. COLABAWALLA, J.  
(In Chamber at 2.40 P.M.)**

**DATE: 28<sup>th</sup> February, 2017**

**P.C.:-**

1] This review petition is taken out by the review Petitioners/original Respondent No.4 seeking review of our order dated 16<sup>th</sup> June, 2015. By the said order, it was agreed that the

Developers shall pay compensation in lieu of alternate accommodation to the original Petitioner viz. Nathulal Kapoorchand Jain, who is admittedly tenant of the said premises. Now an objection has been raised that by the power of attorney which has been executed by Nathulal, his tenancy is practically transferred to his nephew who is a power of attorney holder. It is therefore submitted that the power of attorney holder is not entitled to receive compensation in lieu of alternate accommodation.

2] It is a matter of record that since June 2016, compensation in lieu of alternate accommodation has not been paid. It is submitted that in view of the consent terms which were filed, Developers had withdrawn the suit for eviction which was filed against Nathulal.

3] On the other hand, the learned Counsel appearing on behalf of the Respondents submitted that Nathulal being not in a position to pursue the original Petition, he has given power of attorney to his nephew. It is submitted that therefore the rent/compensation is being received by him and not by his nephew. He submitted that Nathulal continues to be the tenant as earlier and his power of attorney holder is only looking after litigation and the power of attorney is not revoked so far.

4] We are of the view that the question of reviewing our order does not arise. As and when attempt is made by Nathulal to transfer his

tenancy in favour of his power of attorney holder, Developers have right to challenge the same before the competent court.

5] Developers shall deposit the said amount of compensation in this Court within four weeks from today and shall continue to deposit the same in this Court. We permit Nathulal to withdraw the said amount.

6] Review Petition is accordingly disposed of.

7] Prothonotary & Senior Master to act on the copy of this order duly authenticated by the Registry of this Court.

**(B.P. COLABAWALLA, J.)**

**(V. M. KANADE, J.)**