

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5934 OF 2018

(Hasnu Sarafuddin and another Vs. Kalu Laxman and others)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
--	----------------------------------

Mr. N. P. Bhavsar for Petitioners.

CORAM : R. G. KETKAR, J.**DATE : 25TH JULY, 2018****P.C.:**

Heard Mr. Bhavsar, learned Counsel for the petitioners at length.

2. By this Petition under Article 227 of the Constitution of India, petitioners, hereinafter referred to as 'plaintiffs', have challenged the judgment and order dated 06.03.2017 passed by the learned Judge, Court Room No.34 of the Court of Small Causes at Mumbai (Bandra Branch) below exhibit-39 in R.A.E.&R. Suit No.149 of 2013 as also the judgment and order dated 23.02.2018 passed by the Appellate Bench of the Small Causes Court in Revision Application No.37 of 2017. By these orders, the Courts below allowed the application filed by the defendant No.2(b) and Constituted Attorney of defendant No.2(a) for permission to deposit arrears of rent. It is the case of the plaintiffs that defendant No.1 is the tenant. As

against this, it is the case of defendants No.2(a) and 2(b) that defendant No.2(a) is the tenant of the suit premises. In view of these conflicting claims, the learned trial Judge permitted defendant No.2(a) to deposit the rent of suit premises without prejudice to the rights and contentions of both the parties. The said order is upheld in Revision. For the reasons recorded in the impugned orders, I do not find that any case is made out for interfering with the impugned orders. Hence, Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from by the petitioners, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

(R. G. KETKAR, J.)

Minal Parab