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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1206 OF 2012
IN
FIRST APPEAL NO. 396 OF 2003**

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. S. G. Page for the Applicant.

Mr. R. S. Tripathi I/b Sudhakar G. Lakhani for the Respondent.

CORAM : K. K. TATED, J.

DATE : 3rd APRIL, 2019.

P. C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application, the Applicant is seeking permission to deposit lease rent in the Registry of this Court as the Respondent-original Defendant refused to accept it. In support of his contention, learned Counsel for the Applicant relies on paragraph 10 of the Respondent's Reply dated 28.09.2012 which reads thus:

“10. With reference to para 5 of the said Civil Application, I say that the Respondents have accepted the lease rent till the period of 31st December, 2007 and thereafter the Respondents have refused to accept as the Respondents are entitled to increase in the lease rent on and from 1st January, 2008 as the said lease was expired on 31.12.2007 during the pendency of the above First Appeal.”

3. Learned Counsel for the Applicant submits that in view of this fact, the Applicant may be permitted to deposit lease rent in the Registry of this Court.

4. On the other hand, learned Counsel appearing on behalf of the Respondent-original Defendants submits that the Applicant is liable to pay the lease amount as per market rate. Hence, they preferred Civil Application No. 3664 of 2012 which is pending for hearing and final disposal on its own merits. He submits that there is no question of accepting the lease amount at old rate, because the lease agreement dated 30.01.1968 was expired on 31.12.1987. Hence, there is no question of accepting the lease amount on the basis of old rate.

5. Heard both the sides at length. Considering the submission made by learned Counsel for the Applicant that they want to deposit the lease amount payable to the Respondents-original Defendants as per lease agreement dated 30.01.1968 and as the Respondents are not ready to accept the same, the Applicant is permitted to deposit the said amount in the Registry.

6. Hence, the following order:

(a) The Applicant is permitted to deposit the lease amount in the Registry of this court upto 30.04.2019 and for subsequent period, monthly on or before 10 of each month.

(b) Registry is directed to invest the said amount in the fixed deposits of any nationalized bank initially for a period of one year

and same shall be continued till further orders.

(c) Liberty granted to the Respondents-original Defendants, if they so desire, to prefer an appropriate application for withdrawal of amount and the same will be decided on its own merits.

(d) The Civil Application stands disposed of accordingly. No order as to costs.

[K. K. TATED, J.]