

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

WRIT PETITION NO. 7984 OF 2016

WITH

CIVIL APPLICATION NO. 1565 of 2019

IN

WRIT PETITION NO. 7984 of 2016

Vijay Bahadur Mangalprasad Sharma & ...Petitioners
Ors.

Versus

Sakalnarayan J. Sharma (Decd.) Through ...Respondents
LRs. & Ors.

Jaydeep Deo – Advocate for the petitioners.
S. N. Nagpurkar i/b Legal Liaisons – Advocate for the
Respondent No. 1A to 1E & 3.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 8th JULY, 2019.

P.C. :

After suffering a decree of eviction, the tenant filed a statutory Appeal before the Appellate Bench of the Small Cause Court. In that, he suffered an Order 41 Rule 5 of the CPC. Challenging that conditional order of stay, the tenant filed this Writ Petition. Pending this writ petition, it seems that this Court directed the petitioner to deposit 50% of the rent arrears.

2. Now the learned counsel on both the sides inform the

Court that the parties have settled the matter and have filed the consent terms before the Appellate Bench. In that context, they submit that this Writ Petition has become infructuous.

3. The petitioner's counsel, however, submits that as per the terms of the compromise, the petitioner is entitled to withdraw the amount he had already deposited in this court, based on its interim direction earlier. The respondent's counsel reports no objection.

4. I, therefore, permit the petitioner to receive the amount he has already deposited with the Court. As a result, this Writ Petition stands disposed of, as it has been compromised out of Court. If any interest has accumulated, the petitioner is entitled to it.

5. Accordingly, Writ Petition No. 7984 of 2016 and Civil Application No. 1565 of 2019 are disposed of.

[DAMA SESHADRI NAIDU, J.]