

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO.11 OF 2019
IN
CIVIL REVISION APPLICATION NO.219 OF 2015

Gracy D'Monte (Deceased)	]	
Claimant Robert D'Monte & Ors.	]	Applicants

IN THE MATTER BETWEEN:

Gracy D'Monte (Deceased)	]	
Claimant Robert D'Monte & Ors.	]	Applicants
Vs.		
Shafi Ibrahim Darekar	]	Respondent

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Mr. R.M. Nakhawa i/b Vasant Dhavan, Advocate for the Applicants.
Mr. Siddhartha R. Ronghe, Advocate for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 3rd JULY, 2019.

P.C.

Heard Mr. Nakhawa, learned Counsel for the applicants and Mr. Ronghe, learned Counsel for the respondent.

2. By this application, the applicants have sought permission to carry out repairs to roof, walls, tiles, bathroom and washroom of the suit premises i.e structure standing at 794, Dastoor, Maher Road, Pune 411 001.

3. The matter was heard at length. Query was posed to Mr. Ronghe, appearing for the opponent Shafi Ibrahim Darekar (for short 'Shafi') as to whether opponent Shafi, who is the landlord of the suit premises is ready and willing to carry out repairs as prayed for in the application. Mr. Ronghe states that opponent Shafi is present in the Court. He has tendered photo copy of his "Aadhar Card", which is taken on record and marked 'X' for identification. Upon taking instructions from Shafi, he states that opponent Shafi is not in a financial position to carry out repairs. He further states that the suit premises is situate in the Cantonment Area Pune. The applicants will have to obtain permission of the Cantonment Board, Pune before carrying out repairs. He further states that opponent Shafi will give no objection certificate to the applicants for carrying out repairs as prayed in the application, subject to the applicants giving estimate of the expenses of the proposed repairs. Statements made by Mr. Ronghe, on instructions, are recorded. He submitted that liberty may be reserved to the applicants to file application for reimbursement of the expenses incurred towards repairs.

4. Mr. Nakhawa states that applicant No.1-A Claimant Robert D'monte is present in the Court. He has tendered photo copy of his "Aadhar Card", which is taken on record and marked 'Y' for identification. Upon taking instructions from him, he states that the applicants will give estimate of the expenses of the proposed repairs in advance to the opponent and also will seek their NOC for obtaining repair permission from the Cantonment Board, Pune. Statements made on instructions are recorded.

5. In view thereof, C.A is allowed in terms of prayer clause (a) with no order as to costs in the following terms;

- [1] Opponent Shafi shall issue NOC to the applicants for carrying out repairs as prayed in the application.

- [2] The applicants shall submit estimate of the expenses in respect of proposed repairs and will file application for permission of the Cantonment Board, Pune.
- [3] The applicants shall carry out the repairs strictly as per the permission granted by the Cantonment Board, Pune.
- [4] Said arrangement shall be without prejudice to the rights and contentions of the parties in the pending proceedings.
- [5] The applicants are at liberty to take out application for reimbursement of the amount spent towards carrying out repairs.
- [6] Liberty is reserved to the opponent Shafi to take out application for withdrawal of the amount deposited by the applicants.

[R.G. KETKAR, J.]