

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7049 OF 2017

Vishnu s/o Rambhau Kapse and ors.

-vs-

Malti d/o Shriram Rane

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. O. Ahmed, Advocate for petitioners.

Shri S. M. Patrikar, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : March 27, 2019

Civil Application No.1655 of 2018

1. The respondent seeks to withdraw the amount of rent deposited by the petitioners pursuant to the orders passed by this Court. On 03/11/2017 this Court stayed the decree for eviction subject to the petitioners paying occupation charges of Rs.15,000/- per month. It is submitted that the amount deposited as per this order be permitted to be withdrawn.

2. The prayer is opposed by the learned counsel for the petitioners on the ground that in Writ Petition No.1306 of 2017 this Court has fixed standard rent at Rs.10250/- per month and hence the respondent may not be permitted to withdraw the amount of Rs.15,000/- which has been deposited per month.

3. In the light of the orders passed in Writ Petition No.1306 of 2017 the respondent is permitted to withdraw rent at the rate of Rs.10250/- per month. The respondent shall file an undertaking stating therein that in case the present writ petition is allowed, the

amounts withdrawn shall be re-deposited with interest at such rate the Court may direct. The amount of deposit above Rs.10,250/- per month shall be invested in Fixed Deposit.

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4. It is submitted on behalf of the respondent that in terms of order dated 24/06/2016 passed in Miscellaneous Judicial Case No.19/2013 an amount of Rs.10,250/- per month was required to be deposited from 07/02/2013. In the affidavit filed on behalf of the petitioner it is stated that an amount of Rs.10,250/- per month has been deposited from April 2017. The compliance as sought to be made by the petitioner is in terms of the decree for eviction as passed by the appellate Court. The fact remains that standard rent has not been deposited from 07/02/2013.

5. Time of ten days is granted to the petitioner to file additional affidavit indicating reasons for not complying that order dated 30/04/2015 as confirmed in Writ Petition No.1306/2017.

6. The objection with regard to depositing costs of Rs.5000/- does not survive in view of the subsequent orders dated 22/10/2018 and 23/10/2018.

JUDGE