

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

WRIT PETITION NO.5940/2019

M/s.Metal Vidarbha, and another Vs. Seth Sawaldas Dewani Charitable Trust.

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

Court's or Judge's Orders.

Shri A.P.Deshmukh, Advocate for petitioners.
Shri Sahil Dewani, Advocate for respondent sole.

CORAM : A.S.CHANDURKAR, J.
DATED : September 27, 2019

The challenge raised in the present writ petition is to the order passed by the trial Court below Exhibit 67 on 24.01.2019 by which the application preferred by the defendants seeking appointment of a Commissioner to inspect the premises occupied by the petitioners has been rejected. The trial Court has observed that the suit as filed is for eviction on the ground of default in paying the amount of rent. Since the question of fixing of standard rent is not an issue in the said suit, measurement of the same is not at all called for. It is however observed that it is for the defendants to prove any defence which they have intended to raise.

Heard Shri A.P.Deshmukh, learned counsel for the petitioners and Shri Sahil Dewani, learned counsel for the respondent. On considering the application as filed below Exhibit 67, it is seen that according to the plaintiff-Trust the defendants are in occupation of about 290 square feet area. The Trust seeks eviction of the defendants on the ground of arrears of rent. It is always open for the defendants to lead such evidence as found necessary to substantiate their defence. There is no reason found to direct appointment of the Court Commissioner.

In that view of the matter, the impugned order does not call for any interference. The writ petition is therefore dismissed. No costs.

In the circumstances of the case, the proceedings in R.C.S.No.142/2012 are expedited.

JUDGE

Andurkar.