

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

WRIT PETITION NO.7039 OF 2016

Abhay s/o Ramesh Bhagwat
-vs-
Mitali w/o Abhay Bhagwat and anr.

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

Court's or Judge's Orders.

Shri A. A. Naik, Advocate for petitioner.
Shri P. S. Chawhan, Advocate for respondent No.1.

CORAM : A.S.CHANDURKAR, J.
DATE : August 06, 2019

In view of notice for final disposal I have heard the learned counsel for the parties.

The petitioner is aggrieved by the order passed by the trial Court rejecting the petitioner's application for being impleaded as the defendant in the suit that has been filed by the respondent No.1 against the State Bank of India seeking a declaration that the Bank which is a lessee should deposit monthly rent in a separate account opened by the respondent No.1. During the course of hearing attention is invited to the written statement filed in R.C.S.No.32/2016 and especially paragraph 5 thereof where the defendant State Bank of India has stated that the rent was being deposited at the request of the original plaintiff in the account which is mentioned in paragraph 2 of the prayer clause of the plaint.

Shri P. S. Chawhan, learned counsel for the respondent No.1 on instructions submits that a pursis

has been filed before the trial Court in R.C.S.No.32/2016 for withdrawal of that suit. However, no orders could be passed therein because the proceedings in that suit were stayed by passing an interim order on 19/12/2016.

In view of the fact that the original plaintiff in R.C.S. No.32/2016 has filed a pursis for withdrawing the said suit, it is not necessary to adjudicate upon the correctness of the impugned order passed below Exhibit-8. In that view of the matter, the writ petition is disposed of. It is open for the original plaintiff to apply to the trial Court for withdrawal of the amount of rent deposited by the defendant.

No costs.

JUDGE