

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.W. NO. 3226/2019 IN WRIT PETITION NO. 7881/2017

(M/S LACEY TRADING CO. PVT. LTD., NAGPUR & ANOTHER **VERSUS** SUKHMANDAS
GANPATDAS PUNEKAR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.D. Dewani, counsel for petitioners.
R.M. Sharma, counsel for R-1 to 4.
Shri N.A. Vyawahare, counsel for R-5(a) & 5(b).

CORAM : A.S. CHANDURKAR, J.

DATE : DECEMBER 18, 2019.

The applicants who are the tenants seek permission to carry out necessary repairs in the premises occupied by the applicant no.1. In the application, it is stated that the suit premises have been let out for conducting business. By referring to various photographs it is submitted that there has been some damage caused due to termites requiring repairs to the ceiling. It is prayed that such permission be granted. It has been further stated that permission of the original plaintiff was sought for carrying out such repairs but since the same has not been granted the present application has been filed.

After hearing the learned counsel for the parties by the order dated 11.12.2019 a Commissioner was appointed to inspect the premises in question and submit his report. Accordingly, the Commissioner has submitted his report dated 17.12.2019. It has been observed that the plywood placed on the mezzanine floor has decayed and as a result of that it has lost its strength. There is also some water seepage in the walls. Alongwith that report, photographs have also been placed on record.

Shri S.D. Dewani, learned counsel for the applicants submits that the nature of repairs proposed are minor in nature and they do not have the effect of changing the structure of the property.

The repairs are intended with a view to replace the plywood and provide treatment for prevention of termites as well as replacement of some broken glasses. Reference is made to the provisions of Section 14 of the Maharashtra Rent Control Act, 1999.

Shri R.M. Sharma, learned counsel for the original plaintiff opposes the prayer as made. It is his submission that the eviction of the tenant has been sought amongst other grounds under Section 16(1)(b) of the said Act. It is alleged that the tenant has damaged the suit property by pulling down a partition wall. Moreover there is no mezzanine floor in the premises when the same was let out to the applicant.

Perused the report of the Commissioner. The same indicates that the plywood in the mezzanine floor has decayed and hence it requires replacement. Considering the fact that the said portion is affected by termites, treatment in that regard is found necessary to maintain the premises. As regards the apprehension that grant of such permission would result in accepting the case as pleaded by the applicants, it is clarified that the minor repairs carried out would be without prejudice to the rights of the parties in the proceedings for eviction. In the rejoinder filed by the applicant, the nature of repairs proposed have been stated.

Accordingly, the application is allowed by granting permission to the applicants to carry out repairs as indicated in paragraph 4 of the rejoinder dated 10.12.2019. Needless to state that such permission is without prejudice to the rights of the parties in the main proceedings. The civil application is disposed of.

JUDGE