

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO.554 OF 2022
IN
MISC. CIVIL APPLICATION STAMP NO.10916 OF 2022
IN
WRIT PETITION NO.3839 OF 2019(D)

Krishnadas s/o Zavarchand Gaglani

Vs.

Khemchand s/o Lalchand Thadani

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

Court's or Judge's orders

Mr. P. R. Agrawal, Advocate for petitioner.

CORAM : AVINASH G. GHAROTE, J.

DATE : 01/08/2022

1. Civil application 554 of 2022 seeks condonation of delay of 368 days in filing an application for review of the order dated 12.6.2019 passed in Writ Petition No.3839 of 2019. For the reasons stated in the application, the same is allowed. The delay is condoned.

Office to register the application.

MISC. CIVIL APPLICATION STAMP NO.10916 OF 2022

1. The applicant seeks to review the order dated 12.6.2019 in Writ Petition No.3839 of 2019 to the extent it relates to the permission granted to the respondent herein, to withdraw the amount of Rs.10,00,000/- deposited by him upon delivery of vacant and peaceful possession. It is contended that by

Mr. Agrawal, learned counsel for the applicant that the Executive Engineer has determined the rent of the premises in question as Rs.13,240/- as per the certificate dated 28.7.2015 (page 28) and so also proceedings for determining mesne profit are pending in view of which, since it would be difficult for the applicant to recover the amount from the respondent in the future after determination of the mesne profit, the order dated 12.6.2019 ought to be reviewed. Further ground is raised that there was a breach of the undertaking as contained in the order dated 12.6.2019 as the vacant possession of the premises has not been given by 31.3.2020 the date recorded in the order dated 12.6.2019. I am afraid that I am unable to agree to the request, for the reason that the plea which has been sought to be raised does not fall within the parameters of review, as any entitlement of the applicant for the illegal occupation charges (mesne profit) shall accrue only after the same is decided by the concerned Court, which is under adjudication.

2. The review application, therefore is dismissed.

JUDGE

Sarkate