

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1135 OF 2024

Mr. Arjan Kishindas Ramani (since
deceased) through his legal heirs and Ors.

....Petitioners

V/s.

1. Mrs. Pratima Prakash Wagh and Ors.

....Respondents

Mr. Nikhil Wadikar *i/by. Ms. Sharda Pandey, for the Petitioners.*

Ms. Kainaz Irani *a/w and i/by. Mr. Gobinda C. Mohanty for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 14 June 2024.

P.C. :

1. The challenge in the petition is to the order dated 8 June 2023 by which the defence of the Petitioners/Defendants has been struck off for non-compliance with the order of deposit passed under Order 15A of the Civil Procedure Code, 1908.

2. After hearing the petition for sometime, the learned counsel for the Petitioners submits that the entire amount of arrears of rent upto April 2024 has been deposited in the Small Causes Court. A copy of receipt of

payment of Rs.13,70,000/- is shown to me. It is further pointed out that even the amount of costs of Rs.50,000/- is paid to the Respondents and the learned counsel appearing for the Plaintiffs confirms this position. It is further submitted that the Defendants/Petitioners are willing to deposit the amount of rent from May 2024 onwards.

3. In my view, therefore since the amount of arrears of rent is already deposited and the order passed under Order 15A of the Code has been complied with, *albeit* with some delay for which costs are imposed on the Petitioners/Defendants, the defence of the Defendants can be restored. It must be borne in mind that the order striking off defence is a drastic one. The learned counsel appearing for the Petitioners has submitted that there is no deliberate defiance to the order of deposit passed under Order 15A of the Code and the default has occurred on account of peculiar facts and circumstances of the case. The petition accordingly succeeds. The order dated 8 June 2023 passed by the Small Causes Court is set aside. The defence of the Petitioners/Defendants is restored. The Petitioners to deposit arrears of rent for the months of May and June 2024 in the Small Causes Court within a period of one week from today and shall continue to deposit monthly rent in the Small Causes Court .

4. With the above directions, the Writ Petition is allowed and **disposed of.**

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[SANDEEP V. MARNE, J.]