

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.5128 OF 2025**

Louis S.Fernandes (Deceased through L.R.),
Paskin Louis Fernandes
Age 65 yrs., Occupation Business,
R/at Gandhi Chowk, Sawantwadi,
Tal. Sawantwadi, Dist. Sindhudurga

..Petitioner
(Org. Defendant)

Versus

1. Ramesh Nagesh Bhat
Age 63 yrs., Occu. Agri. & Business,
2. Prashant Nagesh Bhat
Age 56 yrs., Occ. Business,
Peti. No.1 & 2 R/at Gandhi Chowk,
Sawantwadi, Tal. Sawantwadi,
Dist. Sindhudurga
3. Geeta Dattaram Bandekar)
Age 65 yrs., Occ. Housewife,
R/at Salaiwada, Sawantwadi,
Tal. Sawantwadi, Dist. Sindhudurga
4. Smita Chandrabhan Pednekar
Age 62 yrs., Occ. Housewife,)
R/at A-403, Shantiniketan, Dikshit
Road, Vileparle (E), Mumbai 57
5. Asha Keshav Mahajan
Age 59 yrs., Occ. Housewife,
R/at G-2, Guruvihar Apartment,
Shukrawar Peth, Satara, Dist. Satara
Resp.Nos.2 to 5 through P.O.A. Holder
Mr. Ramesh Nagesh Bhat
The Respondent No.1

..Respondents
(Orig. Plaintiffs)

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Mr. S. S. Redekar, Advocate for Petitioner.
Mr. Mahesh Vijay Rawool, Advocate for Respondents.

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CORAM : S. G. CHAPALGAONKAR, J.

**RESERVED ON : 27th NOVEMBER, 2025.
PRONOUNCED ON : 5th DECEMBER, 2025.**

FINAL ORDER:-

1. The petitioner impugns order dated 24.11.2022 passed below Exhibit-16 in Regular Civil Suit No.94/2019 by Civil Judge Junior Division, Sawantwadi.
2. The respondents/plaintiffs instituted Regular Civil Suit No.94/2019 for possession of suit property and recovery of rent alongwith interest. According to plaintiffs, suit property was originally owned by Late Vishram Keshav Bhat, who was uncle of plaintiffs. He died issue less on 13.09.2017. The suit property has been leased out to defendant by late Vishram @ Rs.525/- per month. However, upon death of Vishram, Smt. Bharati, who claims to be widow of late Vishram, started claiming right over property left behind by late Vishram. The plaintiffs had served notice upon defendant for payment of rent and dues of taxes. However, defendant refused to pay rent.
3. The defendant refuted plaintiffs' claim contending that he is paying rent to Smt. Bharati. The plaintiffs filed application below Exhibit-16 seeking directions against defendant to deposit amount of rent @ Rs.3000/- per month. The Trial Court allowed said application vide impugned order dated 31.10.2022 and directed defendant to deposit monthly rent in Court without prejudice to legal rights of parties.

4. Mr. Redekar, learned Advocate appearing for petitioner submits that there is dispute between plaintiffs and Smt. Bharati as to ownership of property in possession of defendant. The defendant was paying rent to Smt. Bharati. The respondents/plaintiffs are not landlord and, therefore, suit itself is not maintainable. The impugned order is passed *ex-parte* without giving an opportunity to defendant to reply application Exhibit-16. He would, therefore, urge that impugned order is liable to be quashed and set aside.

5. Per contra, Mr. Mahesh Rawool, learned Advocate appearing for respondents/plaintiffs supports impugned order.

6. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of record tendered before this Court it can be observed that petitioner is a tenant in property, which was originally owned by late Vishram Keshav Bhat. Undisputedly, rent of Rs.525/- per month is payable by petitioner. There appears dispute between respondents and Smt. Bharati as regards to succession of late Vishram. The independent proceedings are pending in this regard. Admittedly, late Vishram was uncle of respondents/plaintiffs. In this background, they instituted suit for recovery of possession of rent. By way of impugned order, petitioner is merely directed to deposit monthly rent in Court subject to rights of rival parties. As such, no prejudice is caused to petitioner. The

petitioner has not filed interpleader suit, however, wants to take benefit of *inter se* dispute between plaintiffs and Smt. Bharati.

7. Secondly, present Writ Petition is filed after 26 months of order impugned. There is no explanation for delay and laches. In that view of matter, this Court finds no reason to entertain Writ Petition.

8. Hence, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE