

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.7546 OF 2024**

1. Ramesh Nagesh Bhat
Age 63 yrs., Occu. Agri. & Business,
 2. Prashant Nagesh Bhat
Age 56 yrs., Occ. Business,
Pet. 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
- ..Petitioners

Versus

Mangesh Cloth Traders
Through Prop.
Shri. Anil Vishnu Kulkarni
Age. 80 years, Occ. Business,
R/O. Gandhi Chowk, Sawantwadi,
Tal. Sawantwadi, Dist. Sindhudurga-416510

..Respondent

...

Mr. Mahesh Vijay Rawool, Advocate for Petitioners.
Mr. S. S. Redekar, Advocate for Respondent.

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CORAM : S. G. CHAPALGAONKAR, J.

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

FINAL ORDER:-

1. The petitioners impugn order dated 03.10.2023 passed by Civil Judge Junior Division, Sawantwadi below Exhibit-16 in Regular Civil Suit No.109/2019, by which application filed by petitioners seeking direction against respondent to deposit monthly rent has been declined.

2. The petitioners filed Regular Civil Suit No.109/2019 contending that late Vishram Keshav Bhat was owner of suit property. He was uncle of petitioners. He died issue less. The suit property is given on rent to respondent. Smt. Bharati is claiming to be successor of late Vishram. As such, there is dispute as to succession of late Vishram. The respondent claims that he is depositing rent with Smt. Bharati, who is unconcerned with suit property. Therefore, they instituted Regular Civil Suit No.109/2019 seeking recovery of possession and rent from defendant.

3. The defendant refuted plaintiffs' claim contending that Smt. Bharati is wife of late Vishram and she is receiving rent of Rs.3000/- from him. In this backdrop, petitioners filed application below Exhibit-16 seeking direction against respondent/defendant to deposit monthly rent in Court. The Trial Court rejected said application. Hence, this Writ Petition.

4. Mr. Mahesh Rawool, learned Advocate appearing for petitioners submits that there is no dispute as to relationship between petitioners and late Vishram. Smt. Bharati, who claims to be widow of late Vishram is unconcerned with them. She laid false claim as to relationship. The respondent/defendant taking advantage of dispute of petitioners with Smt. Bharati did not deposit rent under pretext that it has been paid to Smt. Bharati. He would submit that innocuous directions were sought by petitioners to ensure deposit of monthly rent amount in Court. However, Trial Court erroneously refused the same.

5. Perusal of record tendered before this Court and reasoning adopted by Trial Court shows that there is serious dispute between petitioners and Smt. Bharati on point of succession of late Vishram. Unless dispute between Smt. Bharati and petitioners is resolved by Competent Authority, petitioners cannot claim themselves to be landlord in respect of suit property. The Trial Court has rightly observed that in present case relationship as lessor and lessee itself is in question and, therefore, refused to pass any order directing defendant to deposit rent amount.

6. It can be observed that in case petitioners establish their exclusive right over suit property as against claim of Smt. Bharati, they would be entitled to recover entire rent amount from defendant, who is admittedly tenant in suit property. The dispute as to succession between plaintiffs and Smt. Bharati is pending before Competent

Court. The right of petitioners/plaintiffs to recover rent amount would be dependent upon such decision. In that eventuality, if defendant claims that he is paying rent to Smt. Bharati, he is carrying his own risk. However, in absence of concrete material indicating that there is relationship as lessor and lessee between petitioners and defendant, if Trial Court has refused to grant application, no jurisdictional error can be found in order.

7. In result, Writ Petition stands dismissed.

8. Needless to mention that aforesaid order is passed on *prima facie* consideration of material and observations made herein are only for purpose of disposal of Writ Petition. The petitioners shall be at liberty to exercise their right after decision on issue as to succession.

(S. G. CHAPALGAONKAR)
JUDGE