

WRIT PETITION NO. 8771 OF 2024

DATE : AUGUST 13, 2025.

3. Before the trial Court, Application (Exhibit -15) was filed by the respondent no.3 herein (Mr. John Philip Crasto). In the said application, it was submitted that there are leakage in the tenanted premises being Room No. 1/15C situated at Wellington Terraces, 2nd

floor, Dr. Simon Fernandes Marg, Mumbai 400 002. Due to the water sipping from the third floor flat i.e. Room No.25. It was prayed that the landlord who are present petitioners and the occupants/tenants of Room No.25 on the third floor should carry out the repairs in Room No.25 in order to stop the water percolating from the third floor flat to the second floor flat.

4. The said application was heard and learned Trial Judge of the Small Causes Court, vide its order dated 21st July 2023 allowed the application directing the landlords and the occupants of the third floor flat to carry out the repairs in Room No.25 within twenty-five days of the passing of the order. The impugned order has been passed on 21st July 2023 and till date the directions given in the impugned order has not been complied.

5. Mr. Revankar, learned counsel for the landlords submits that the present petitioners who are the landlords, are ready to comply with the order, however, he cannot carry out the repairs as the third floor flat i.e. Room No.25 is locked by the occupants/tenants of the said flat and is not in use. He further submits that a eviction suit has been filed by the petitioners/landlords against the tenant of Room No.25 which is pending for hearing. In the said suit, filed for eviction,

present Interim Application has been preferred by occupants of the second floor premises. He submits on instructions that if the Court allows the petitioners/landlords to open the premises of the third floor i.e. Room No.25 only for the purpose of carrying out repairs, the petitioners would do the needful, and can comply with the orders passed on 21st July 2023.

6. After hearing learned counsel for both the sides and their submissions that the building in which the premises are situated is old structure aged eighty years and the fact that there is an undisputed fact that there is a leakage in Flat No.1/15C situated at second floor, and admittedly, it is the duty of the landlord under the provisions of Section 14 of the Maharashtra Rent Control Act to keep the premises in good condition, therefore, according to me, in the interest of justice only for the limited purpose of carrying out repairs in third floor premises being Room No.25, the petitioners should be allowed to open the lock of the premises under the supervision of the Court. Hence, the following order.

ORDER

(i) In order to execute the order dated 21st July 2023, passed in R.A.E. Suit No.747 of 2021, the Judge of Small Causes Court hearing

the R.A.E. Suit No. 747 of 2021, shall appoint a bailiff to open/break open the lock of the premises being Room No.25 situated at 3rd floor, Wellington Terraces, 2nd floor, Dr. Simon Fernandes Marg, Mumbai 400 002.

(ii) The said bailiff will open/break open the lock of Room No.25, in the presence of the parties to the suit, by giving them notice, and if the parties chose not to respond to the notice, the trial Court should direct the bailiff to proceed further with the process of opening the lock of the premises by breaking the lock, if the keys are not available. The said act is meant only for the purpose of carrying out repairs in Room No.25, so as to stop leakage to flat below it viz. Room No.1/15C.

(iii) At the time of opening of the lock of Room No.25, inventory to be carried out by the bailiff. The bailiff charges and other expenses to be borne by the petitioner/landlord.

(iv) The said repairs to be carried out within a period of four weeks from the date of the opening of the lock of the premises and thereafter, a new lock to be put up by the Bailiff and the keys of the said lock to be kept in the Registry of the Small Causes Court under the supervision of the trial Court.

(v) If any application is made by the tenant for handing over to them the new keys of the lock which will be put up by the Bailiff on Room No.25, Wellington Terraces, 2nd floor, Dr. Simon Fernandes Marg, Mumbai 400 002, the same should be considered favourably by the Judge of the Small Causes Court.

(vi) This interim arrangement is made pending the hearing of the suit, considering the difficulties faced by the tenant of Flat No.1/15C, and the age of the building being 80 years which would be ultimately depend on outcome of the suit.

(vii) The Petitioners should give a notice of steps taken by them, to the respondent no.3 (tenant of Flat No.1/15C, Wellington Terraces, 2nd floor, Dr. Simon Fernandes Marg, Mumbai 400 002)

7. The writ petition is disposed of accordingly.

(Rajesh S. Patil, J.)