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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 237 OF 2026
IN
WRIT PETITION NO. 6327 OF 2013

Connel James Pereira (since deceased)
through his legal heirs

1. Selsia Connel Pereira & 3 Ors. ... Applicants

In the matter between

Rosy B. Louis ... Petitioner

Versus

Connel James Pereira and Ors. ... Respondents

Mr. Anil D'souza a/w. Mark Dbritto i/b. Ernest Tuscano for
Applicants in IA.

None for Respondents in IA/Org. Petitioner in WP

CORAM : M.M. SATHAYE, J.

DATE : 23rd JANUARY, 2026

P.C. :

1. Heard learned counsel for the parties.
2. The Applicants are legal heirs of original Respondent No.1 Mr. Connel James Pereira. The application is taken out in above disposed of writ petition.
3. Learned counsel for the Applicants invited the Court's attention to the order dated 25.07.2013 passed by this Court in above writ petition. He submitted that the writ petition arose out of delay condonation application which was filed by the Petitioner against rejection of condonation of delay in filing the appeal. He pointed out that this Court allowed the delay condonation application on the

condition of payment of arrears of rent amounting to Rs.1,43,725/-.

4. He invited the Court's attention to the order dated 28.02.2023 passed in Appeal No. 9 of 2013. He submitted that this appeal is the same appeal which was registered after payment of arrears of rent under the order of this Court. He pointed out that the appeal has been considered on merits and has been dismissed under the order dated 28.02.2023. He submitted that this order of dismissal of the appeal was challenged by the Petitioner in this Court by filing Civil Revision Application No. 177 of 2023. There is a specific averment to that effect made on oath in the paragraph No.6 of the application.

5. He submitted that the said CRA/177/2023 has been dismissed for want of prosecution under order dated 07.10.2024. Copy of the said order is produced on record.

6. Learned counsel for the Applicants submitted on instructions that the dispute has now reached the stage up to proclamation issued in execution application and so far, no notice is received by the Applicants to indicate that the Petitioner has carried the matter any further after its dismissal for default in this Court. Statement accepted.

7. He submitted that in these circumstances the present application is filed seeking permission to withdraw the amounts deposited in the Small Causes Court, Bandra pursuant to the order of this Court dated 25.07.2013.

8. After the arrears of rent are deposited the matter has

proceeded further and appeal has been heard which is dismissed and that dismissal is confirmed by this Court. From the record, it is clear that the amounts sought to be withdrawn were deposited towards arrears of rent, under order of this Court.

9. In that view of the matter, there is no reason not to allow the Applicants to withdraw the amounts deposited in the Court. Therefore notice to the Petitioner in writ petition is dispensed with.

10. Subject to the Applicants filing an undertaking in Small Causes Court, Bandra, stating that they will bring back the amounts if so directed by the Court, **the application is allowed in terms of prayer clauses (a) & (b)**, which read thus:

“a. The Applicants may be allowed to withdraw the amounts deposited in Small Causes Court, Bandra Branch pursuant to the Order dated 25 July 2013 along with interest accrued.

b. The Registry, Small Cause Court to be directed to release sum of Rs.1,43,725/- (Rupees One Lac Forty-Three Thousand Seven Hundred and twenty-Five Only) along with accrued interest in favour of Applicant No. 1, Selsia Connel Pereira.”

11. Since this order is being passed in absence of the original Petitioner, the Petitioner is at liberty to move.

(M.M. SATHAYE, J.)