

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2301 OF 2026

Sri. S. Periaswamy

..... PETITIONER

: **VERSUS** :

HLRs of Morarji Hariram

& Ors.

.... RESPONDENTS

Ms. Sushma Singh, *for the Petitioner.*

Mr. Shravan M. Vyas *a/w. Mr. Vivek S. Vyas, for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATED : 7 APRIL, 2026.

P.C. :

1) The petition challenges order dated 19 January 2026 passed by the Appellate Bench of the Small Causes Court allowing Revision Application No. 271 of 2025 preferred by the Plaintiff-Landlord and setting aside Trial Court's order dated 4 August 2025. By order dated 4 August 2025, the Trial Court rejected application at Exh.118 filed by the Plaintiff-landlord for taking on record Affidavit of additional evidence, as well as additional documents.

2) I have heard Ms. Singh, the learned counsel appearing for the Petitioner and Mr. Vyas the learned counsel appearing for the Respondents.

3) The Plaintiffs' Suit is for eviction of the Defendants on the grounds, inter-alia of committing breach of the conditions of lease by putting at risk the head lease in respect of the suit property. By way of additional Affidavit of evidence and list of additional documents, Plaintiffs want to bring on record

several documents by which Plaintiffs were allegedly required to pay penalties which are attributed to the acts of the Defendants. It therefore cannot be contended that the additional evidence sought to be produced by the Plaintiffs has no nexus to the pleadings in the plaint. In that view of the matter, I am not inclined to interfere in the order passed by the Appellate Court permitting the Plaintiffs to produce additional documents and additional evidence. At the same time, it is seen that the Plaintiffs are extremely negligent in the present case. The original Affidavit of evidence was filed on 10 October 2017 in a suit which is pending since the year 2005. The cross-examination of the Plaintiffs' witness was conducted on 6 April 2022 when repeated questions were asked to the witness about any correspondence with MCGM relating to use of the suit property. Despite clearly receiving a hint of the need for production of correspondence between the Plaintiff and MCGM through cross-examination conducted on 6 April 2022, Plaintiff took another 3 years to file application for production of additional evidence and additional documents. Considering this negligent conduct, the Appellate Bench ought to have imposed costs on the Plaintiff. To this limited extent, the order dated 19 January 2026, needs modification.

4) Accordingly, the order dated 19 January 2026 is modified to the limited extent of imposition of costs of Rs.25,000/- on the original Plaintiffs. The amount of costs shall be deposited by the Respondents-Plaintiffs within a period of 4 weeks before the Trial Court with liberty to the Petitioner-Defendants to withdraw the same. The Writ Petition is accordingly disposed of.

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[SANDEEP V. MARNE, J.]