

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 364 OF 2014

SMT. KALINDI PARSEKAR

... Petitioner

Versus

M/S NAGESH TRIVIKRAM NAIK THR. ITS
SOLE PROPRIETOR SHRI MAHABALESHWAR
NAIK AND ANR.,

... Respondents

Shri D. Pangam, Advocate for the Petitioner.

Shri S.D. Lotlikar, Senior Advocate with Shri Prasheen Lotlikar,
Advocate for Respondent No.1.

Coram:- N. M. JAMDAR, J.

Date:- 3rd February, 2015

ORAL ORDER :

By this petition, the petitioner challenges order passed by the Tribunal on 26 September 2012 allowing the appeal filed by the respondent no.1 challenging the order of Rent Controller in Rent Appeal dismissing the application filed by the respondent no.1 to deposit the amount of suit premises.

2. By the impugned order, the Tribunal has permitted the respondent no.1 to deposit the rent from July, 2010 onwards.

3. The learned Counsel for the petitioner submitted that the Tribunal has held that the respondent no.1 is a tenant of the premises of which he is not and such finding rendered by the Tribunal will affect the pending litigation between the petitioner and the respondent no.1.

4. The scheme of Section 18 of the Act indicates that it is the power which is to be exercised on an application by person, who has a doubt to whom he should pay the rent. This is to avoid the difficulty in respect of such person in case the proceedings are brought against him by the landlord for eviction on the ground of non-payment of rent. By the very nature of this methodology, it is an arrangement to tie up work in exigency as mentioned above and serious question as to the relationship between tenant and landlord cannot be considered, but the finding will have to be prima facie. Findings rendered by Rent Controller under Section 18 cannot be termed as conclusive and it is open to the parties to get their rights aptated/adapted from the competent authority i.e. Civil Court. In view of this position, the apprehension expressed by the learned Counsel for the petitioner that the finding rendered by the Tribunal that the respondent no.1 is a tenant will affect his contentions in the Civil Suit, are misplaced. It is clarified that the civil proceedings pending between the parties and the civil proceedings which may be instituted by the parties later on will not be affected by the decision rendered by the Tribunal.

5. In view of this clarification no further directions are required to be passed in this Writ Petition which is disposed of.

N. M. JAMDAR, J.

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