

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Writ Petition No. 8666 of 2016

Late Kalabai Multipurpose Social Trust
Aurangabad & Others. .. **Petitioners.**

Versus

Ranjanvan Co-operative Housing
Society Ltd. N-9 CIDCO, Aurangabad. .. **Respondent.**

Shri. S.S. Gangakhedkar, Advocate, for petitioners.

CORAM: T.V. NALAWADE, J.

DATE : 1st SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the order made on Exhibit 39 in Rent Suit No.25/2013 which is pending in the Court of the Civil Judge, Junior Division, Aurangabad. Application at Exhibit 39 was filed by the present petitioner, defendant of the suit, for dismissal of the suit on the ground that valuation of the suit is in excess of Rs. five lakh and due to that the Court of the Civil Judge, Junior Division, has no pecuniary jurisdiction over the subject matter of the suit. Heard learned counsel for the petitioner.

2) The suit for eviction is filed under the provisions of Maharashtra Rent Control Act, 1999. It is the case of the respondent, plaintiff that present petitioner, defendant, is licensee and he has committed breach of the terms & conditions of the licence. One of the contentions is that the licensee has committed default in making payment of licence fee and he is liable to pay licence fee in respect of 53 months which is around Rs.5.30 lakh. In view of this valuation and the claim of recovery made by the licensor, objection was taken by the present petitioner to the jurisdiction of the Court of the Civil Judge, Junior Division.

3) It is true that the valuation of the suit is more than Rs. five lakh and at present the suit is pending in the Court of learned Civil Judge, Junior Division, Aurangabad. The trial Court has referred to the provision of section 33 of the aforesaid Act for rejection of the application. The relevant portion of this section is as under :

"33. Jurisdiction of Courts.-- (1) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of Chapter VIII, and notwithstanding that by reason of the amount of the

claim, or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,--

(a)

(b)

(c) elsewhere, the Court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the Court of the Civil Judge (Senior Division) having ordinary jurisdiction, shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises and to decide any application made under this Act (other than the applications which are to be decided by the State Government or an officer authorised by it or the Competent Authority) and subject to the provisions of sub-section (2), no other Court shall have jurisdiction to entertain any such suit, proceeding, or application or to deal with such claim or question."

4) The aforesaid provision shows that irrespective of the amount which is sought to be recovered, the jurisdiction is given to the Court of the Civil Judge, Junior Division, which is created as the Rent Court for the purpose of this special Act. Thus, the jurisdiction is given over the subject matter of the suit to the Court of the Civil Judge, Junior Division and due to that it cannot be said that the present Court is deciding the matter only as the Court of the Civil Judge, Junior Division. In view of these

circumstances and the provisions of law this Court holds that the present Court which is specially created by the Rent Act has jurisdiction over the matter. There are no merits in the proceeding. In the result, the petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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