

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12335 OF 2015**

1.Mr. Ramchandra Ganesh
Gokhale

Petitioner

Vs

1.Shri Rahul Shripad Gokhale,
through its Power of attorney
holder, Shri Shripad Ganesh
Gokhale

.. Respondent

Mr. Prashant P. Jadhav, Advocate for Petitioner.

Mr. G.S.Godbole, Senior Advocate, with Ms. Shruti Tulpule for
Respondent.

CORAM : R.G.KETKAR,J.

DATE : 20/01/2016

PC:

1. Heard Mr. Prashant Jadhav, learned counsel for the petitioner and Mr.G.S.Godbole, learned senior counsel for the respondent at length.

2. Rule. Ms. Shruti Tulpule waives service for the respondent. At the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged order dated 12.11.2014 passed by the Competent Authority, Pune Division, Pune below Exh. 33 in Application No.20 of 2013. By that order, the Competent Authority overruled the objection raised by the petitioner as regards jurisdiction of the competent authority to entertain and try the application.

4. Mr. Jadhav submitted that the premises, in question, were given to the petitioner for commercial use, namely, shop premises. He relied upon Sections 23, 41, and 42 of the Maharashtra Rent Control Act, 1999 (for short, 'Act') to contend that the application under section 42 can be made by landlord only in respect of the premises which are given for residence.

5. Mr. Godbole fairly conceded this position and submitted that the respondent will withdraw the proceedings filed under Section 42 of the Act and adopt appropriate proceedings.

6. In view of this, the impugned order is set aside and the respondent is permitted to withdraw Application No.20 of 2013 with liberty to adopt appropriate proceedings. It is expressly made clear that I have not examined merits of the proposed proceedings.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

(R.G.KETKAR, J.)