

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.5280 OF 2014
WITH
WRIT PETITION NO.5281 OF 2014
WITH
WRIT PETITION NO.5282 OF 2014
WITH
CIVIL REVISION APPLICATION NO.710 OF 2014
WITH
CIVIL REVISION APPLICATION NO.711 OF 2014
WITH
CIVIL REVISION APPLICATION NO.712 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Prakash Shinde with Ms. Chinmayee Ghag i/b MDP & Partners, Advocates, for Petitioners/Applicants.

Ms. Ranjana Parikh, Advocate for Respondent no.1.

Mr. P.K.Dhakephalkar, Senior Advocate, a/w Mr. Neveille Mukharji, Chirag Kamdar i/b Veritis Legal, Advocates for Respondents no. 2 to 5 in Petitions.

CORAM: R.G.KETKAR, J.

DATE : 11/08/2016

PC:

1. Heard P.K.Dhakhephalkar, learned senior counsel for the applicants, Mr. Prakash Shinde, learned counsel for the petitioners and Ms. Ranjana Parikh, learned counsel for respondent no.1, in all the matters at length. At the request and by consent of

the parties, Petitions and Civil Revision Applications are taken up for admission.

2. Mr. Dhakephalkar submitted that in the trial Court, specific issue was framed as regards whether the defendants are entitled to protection under any Rent Control Legislation. In paragraph 13, the learned trial Judge held that Section 3(1)(b) of the Maharashtra Rent Control Act, 1999 (for short, 'Act') exempts premises and not the relationship and accordingly held that none of the defendants are entitled to protection.

3. Mr. Dhakephalkar submitted that the said contention was also agitated before the Appellate Court. He invited my attention to paragraph 11 of the appellate Court's judgment in Appeal No. 31 of 2013 wherein the contention of defendant no.1 that there was no privity of contract between the plaintiffs and defendant no.2-Bank and, therefore, Section 3(1)(b) of the Act is not applicable to defendant no.1, was recorded. He submitted that defendant no.1-Maxim Electronics Pvt. Ltd in C.R.A. No. 712 of 2014 is a private limited company having less than one crore share capital. As far as Defendant no.1- M.T.Marfatia Trust in C.R.A. No.711 of 2014 as also defendant

no.1-Ms. Alisha Miten Marfatia in C.R.A 710 of 2014 are concerned, there is no question of these parties having share capital of more than one crore. Though this point was specifically agitated before the Appellate Court, the same has not been dealt with.

4. Upon taking instructions from the instructing Advocate, he seeks permission to withdraw these Civil Revision Applications with liberty to file Review Petitions before the Appellate Court. He assures that within two weeks from today, Review Petitions will be filed before the Appellate Court. He further submits that interim orders staying the eviction decree may be continued pending the proposed Review Petitions. The Appellate Court may be directed to dispose of the Review Petitions in a time bound manner.

5. Upon taking instructions, Mr.Shinde seeks permission to withdraw these Petitions with liberty to file Review Petitions before the Appellate Court. He also submitted that the interim orders staying the eviction decree may be continued pending the proposed Review Petitions.

6. Ms. Parikh submits that in case the petitioners/applicants are permitted to file Review Petitions, all contentions of the plaintiffs may be kept

open.

7. In view thereof, on the motion made by learned counsel for the applicants/petitioners, these Petitions and Civil Revision Applications are allowed to be withdrawn with liberty to file Review Petitions. Review Petitions shall be filed within two weeks from today.

8. Notwithstanding withdrawal of the Civil Revision Applications/Writ Petitions, the interim orders staying eviction decree shall remain in force during the pendency of the Review Petitions. All contentions on merits in the proposed Review Petitions are expressly kept open. The Appellate Court is requested to dispose of Review Petitions within eight weeks from today.

9. By way of abundant caution, it is clarified that this Court has only stayed the eviction decree and has not stayed the proceedings for determination of mesne profits. Order accordingly.

(R.G.KETKAR,J.)