

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 5939 OF 2015**

**Dina Minoo Daver & Anr.**

**..Petitioners**

**Vs.**

**Zainab A Varawalla & Anr.**

**..Respondents**

**Mr. N. H. Seervai Senior Advocate a/w Mr. P. S. Dani Senior Advocate a/w  
Mr. Ankur Gupta i/b Udwadia & Udeshi for the Petitioners  
Mr. Bernazdo Reis a/w Mr. P. S. Patil for the Respondent No.1**

**CORAM : R. M. SAVANT, J.**

**DATE : 4<sup>th</sup> FEBRUARY, 2016**

**P.C.**

1           The Order dated 21-1-2015 passed by the Competent Authority, Konkan Division, Mumbai, is taken exception to by way of the above Petition. The principal ground on which the order is challenged, is that whilst considering the application for leave to defend dated 13-2-2014, which was filed in terms of Section 43(4) of the Maharashtra Rent Control Act, 1999, the Competent Authority has dismissed the main application being No.76 of 2013 on the ground that there is no relationship of licensor and licensee between the parties and hence the application is not tenable.

2           In my view, the Competent Authority has erred in adjudicating upon the matter on merits when it was only required to consider whether leave to defend is required to be granted to the Respondent herein. The order

therefore has been passed in breach of the said provisions and is therefore without jurisdiction. The impugned order is therefore required to be quashed and set aside and is accordingly quashed and set aside and the matter is relegated back to the Competent Authority for a denovo consideration of the said application for leave to defend dated 13-2-2014.

3           Needless to state that the contentions of the parties are kept open for being adjudicated before the Competent Authority. This court has issued the aforesaid directions as it has come to a conclusion that the order passed by the Competent Authority was without jurisdiction. Needless to further state that the said application for leave to defend would be decided by the Competent Authority on its own merits and in accordance with law, uninfluenced by the impugned order.

4           The Writ Petition is accordingly disposed of.

**[R.M.SAVANT, J]**