

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2435 OF 2017
(Vimalbai Inderchand Jain Vs. Sanjiv Narsinh Pathak and another)

Mr.G.S.Rane, Advocate for the petitioner.
Mr.P.R.Patil, Advocate for respondent Nos. 1 and 2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 12/07/2017

PER COURT :

1. The petitioner/tenant is aggrieved by the order dated 10/01/2017 passed by the competent Court under the Maharashtra Rent Control Act, by which application Exh.22 seeking framing of a preliminary issue touching the jurisdiction of the authority, has been rejected.

2. I have heard the learned Advocates for the respective sides. The prayer put forth by the petitioner in Exhibit 22 was that the preliminary issue be framed and the issue of jurisdiction be taken up. Learned Advocate for the petitioner submits that by the impugned order, the Trial Court has concluded that it has jurisdiction and the matter is maintainable.

3. Upon considering the impugned order, I do not find that the Trial Court has really dealt with the said issue since the basis of the

petitioner's claim is of partition and the landlord claims inheritance. This would be a mixed question of facts and law and I do not think that the Trial Court has concluded the issue.

4. In the light of the above, as the issue of tenability and jurisdiction can be considered by the Court while deciding the proceedings and for avoiding the adjudication of the proceedings in bits and pieces, this petition need not be entertained.

5. As such, this petition is disposed of. All contentions of the litigating sides, as have been canvassed through their pleadings, shall be kept open and the Trial Court shall endeavour to decide the pending proceedings in Application No.14/2016 as expeditiously as possible and within a period of 15 months from today considering the age of the litigating sides.

(Ravindra V.Ghuge, J.)