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

**CIVIL APPLICATION NO.7940 OF 2017
IN/WITH
SECOND APPEAL NO.494 OF 2015
WITH
CIVIL APPLICATION NO.11876 OF 2015**

Smt Vimalbai w/o Vishwanath Gaikwad,
Age: 52 years, Occu: Nil,
as sole legal representative of
deceased, Vishwanath Gopinath Gaikwad,
R/o: Chawl No. L-09, Room No.11,
Tilak Nagar, Tal. Shrirampur,
District Ahmednagar ..APPLICANT

VERSUS

The Manager,
Tilaknagar Industries Ltd.,
Tilak Nagar, Tal. Shrirampur,
District Ahmednagar
Raver Taluka Urdu Edu ..RESPONDENT

Mr Naseem R. Shaikh, Advocate for applicant

CORAM : N.W. SAMBRE, J.

DATE : 5th July, 2017

ORAL ORDER

For the reasons disclosed in the application, Civil Application No.7940 of 2017 stands allowed. Amendment be carried out forthwith.

2. Mr Shaikh, learned Counsel appearing on behalf of the appellant-defendant would urge following substantial question of law :-

“Whether the Courts below have committed an error of law in recording a finding that the appellant was a licensee and not tenant, in absence of an express agreement to that effect?”

(2)

3. To understand the controversy involved in the appeal, it is required to be noted that an industry run by the respondent-employer was closed down. The appellant-original defendant was employed as a labour in the said industry and he was given quarters to occupy of which eviction is sought terming him to be a licensee. While ordering the eviction, the learned Trial Court framed an issue as regards the status of the present appellant as a licensee and after interpreting the salary slip, deduction of Rs.7/- and relationship of employer and employee recorded a finding that there exists relationship of licensor and licensee between the parties to the suit.

4. Though Mr Shaikh would strenuously urge that there is no express agreement *qua* relationship of licensor and licensee, still in view of evidence both oral and documentary as is brought on record has rightly prompted the Courts below to record a finding that the relationship between the parties is that of licensor and licensee. I hardly see any perversity or material infirmity in the findings recorded by the Courts below. Second Appeal lacks merit and stands dismissed. In view of dismissal of second appeal, Civil Application No.11876 of 2015 does not survive and stand disposed of.

(N.W. SAMBRE, J.)

amj