

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.5508 OF 2015**

Madhukar Shivshankar Choudhary ... Petitioner

vs

Mehta Park Cooperative Housing Scty Ltd .. Respondent

Mr.S.S.Kulkarni for Petitioner

Mr.D.B.Sawant with Mr.Vinayak Salunkhe for Respondent

Petitioner present in Court

Coram : G.S.KULKARNI, J.

Date : 4 JANUARY 2018

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Heard Mr.Kulkarni learned counsel for the petitioner and
Mr.Sawant learned counsel for the respondent.

2. The challenge and the grievance of the petitioner in this petition is to the order dated 25.3.2015 whereby the revision application of the petitioner against an order dated 11.7.2012 of the learned trial Judge on a standard rent application filed by the petitioner stands rejected.

3. The learned trial Judge disposed of the petitioner's application for fixing standard rent (R.A.No.72/SR of 2010) by order dated 11.7.2012 in the following terms:

- “1. Application for the fixation of standard rent is allowed.*
- 2. It is hereby declared that the standard rent of the application premises of the applicant in the capacity as a tenant of the respondent as well as a member of the Co.operative Housing Society is fixed at Rs.60/- p.m.*
- 3. The applicant is liable to pay permitted increases in addition to the aforesaid monthly rent towards municipal taxes, water charges, common amenity charges inclusive of electric charges of the common amenity and all other outgoing charges payable to the society by each member according to their contribution as decided in between them.*
- 4. The arrears due for the period as per audited account of the respondent/society shall be paid by the application directly to the respondent/society provided respondent/society has to furnish all such details by bifurcating monthly rent and the permitted increases and all other charges applied for common amenities about the due period.*
- 5. No order as to costs.”*

4. The grievance of Mr.Kulkarni learned counsel for the petitioner is in regard to the directions as contained in paras 3 and 4 of the orders passed by the learned trial Judge and as confirmed by the revisional Court to the extent that it includes payment of “common amenity charges.” The contention of Mr.Kulkarni is that the learned trial Judge ought not to have directed payment of the common amenity charges for the reason that common amenity charges are not included in the rent. It is submitted that petitioner in any case is not a member of the respondent-society and thus there cannot be any obligation to pay such charges. My attention is drawn to the tenancy agreement dated 23.8.1971 and more particularly to

clause 1, to submit that the liability of the petitioner would be to pay rent which is inclusive of taxes, water charges but exclusive of the electricity charges. It is thus, submitted that the Courts below have completely overlooked this basic aspect in directing the common amenity charges to be paid by the petitioner.

5. Mr.Sawant learned counsel for the respondent-society on the other hand submits that the petitioner w.e.f. 1.3.1999 has not paid any amount to the respondent- society. For the first time in the year 2010 the petitioner filed the standard rent application in question. It is submitted that the petitioner is using all the common amenities and therefore, it will be the obligation on the petitioner to make appropriate payment also of the common amenity charges.

6. After the petition was heard for sometime, Mr.Sawant on instructions submits that his clients are agreeable for deletion of the common amenity charges as incorporated in para 3 of the order passed by the trial Court. However, this would be without prejudice to the rights of the respondent-society to be entitled of other charges which are due and payable by the petitioner inclusive of the amount

of standard rent of Rs.60/- per month as fixed by the learned trial Judge and confirmed by the revisional Court. The suggestion of Mr.Sawant is acceptable to the petitioner as stated by Mr.Kulkarni, on instructions of the petitioner who is present in the Court.

7. Mr.Sawant the learned counsel for the respondent on instructions submits that within a period of two weeks from today, the respondent-society would furnish to the petitioner the details of arrears of rent alongwith permitted increases which would be calculated as per the impugned order. Mr.Kulkarni learned counsel for the petitioner on instructions of the petitioner submits that on receipt of such communication of the details of the arrears payable, the same shall be paid by the petitioner within a period of three months from such receipt. Statement is accepted.

8. In view of the above consensus, this writ petition does not warrant any further adjudication. It is accordingly disposed of in the above terms however, with no order as to costs.

{G.S.KULKARNI, J}