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

***SECOND APPEAL NO. 272 OF 2017
with
CIVIL APPLICATION NO. 590 OF 2017***

Narayan Raghunath Natu
Deceased, through L.Rs.
Anuradha Narayan Natu and Ors. ... Appellants/Applicants.

V/s.

Maharashtra Rajya Pariwahan
Mahamandal, Kolhapur and Ors. ... Respondents.

Mr. Amit B. Borkar for the Appellants/Applicants.
Mr. Yashodeep P. Deshmukh for Respondents 1 and 2.

CORAM : N.M. Jamdar, J.

DATE : 8 January, 2018.

Oral Order :-

The Appellants – Original Plaintiffs have challenged concurrent judgments and orders passed by the learned Civil Judge, Junior Division, Kolhapur and the learned District Judge, Kolhapur dismissing the suit and appeal filed by them.

2. The Appellants instituted a Regular Civil Suit No. 424 of 2008 in the Court of Civil Judge, Junior Division, Kolhapur seeking a declaration that the rent/compensation enhanced by the Respondent – Authority is not legal and valid and no eviction proceedings can be instituted against the Appellants without taking recourse to the due process of law. The Respondents opposed the relief sought for contending that the suit is not maintainable in view of Section 8A of the Maharashtra Government Premises (Eviction) Act. Both the Courts have accepted this objection of the Respondents and dismissed the suit and the appeal by the impugned orders.

3. Heard the learned Counsel for the parties.

4. That the premises are governed under the provisions of the Maharashtra Government Premises (Eviction) Act, 1956, is not in dispute. It is the contention of the learned Counsel for the Appellant that the factum of enhancement of compensation/rent cannot be gone into by the authorities established under the Act of 1956 and therefore, there is no bar of jurisdiction of Civil Court under Section 8A of the Act of 1956. The learned Counsel further contended that the relief that the Appellants should not be dispossessed without due process of law can always be sought in the Civil Court.

5. As regard the second submission regarding due process of law is concerned, the Act of 1956 lays down a complete methodology for eviction of a licensee/occupier. In the plaint there is no reason whatsoever demonstrated as to why the Respondent – authority will not follow the methodology under the Act of 1956, which they are bound to follow. There is therefore no merit in this contention.

6. As regard the contention in respect of enhancement of rent is concerned, Section 4(a)(i) deals with this aspect. This provision states that if the Competent Authority is satisfied that the person authorized to occupy any Government premises has not paid the rent 'lawfully due' from him, then the Competent Authority is empowered to take proceedings for eviction. As against the order passed under Section 4, an appeal is provided under Section 7 of the Act of 1956. Section 4(a)(i) clearly states that for non payment of rent 'lawfully due', an eviction proceedings can be launched. It inheres therefrom that the licensee/occupier can always contend that the rent demanded is not 'lawfully due'. This contention can also be urged in an appeal under Section 7. Since this aspect has been covered under Section 4(a)(i) and Section 7 as indicated, the bar of of jurisdiction under Section 8A will come into the play. The aspect of rent 'lawfully due' will fall within the ambit of the phrase “recovery of the arrears of rent” under Section 8A of the Act of 1956.

7. Under these circumstances, there is no error in the view taken by both the Courts that there is a bar of jurisdiction of the Civil Court under Section 8A of the Act of 1956 for seeking the reliefs sought for by the Appellants in the plaint.

8. In view of this position, no substantial question of law arises. The Second Appeal is dismissed. The Civil Application stands disposed of.

(N.M. Jamdar, J.)