

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:**NAGPUR BENCH : NAGPUR****Writ Petition No. 6522 of 2017****[Ramkrishna Mahadeo Barapatre (dead) through L.Rs. Vs. Shreekrishna Prafulla Buty]**

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.****Court's or Judge's orders**

Mr. Sibghatullah Jagirdar, Adv., for the petitioner.
Mr. S. G. Aney, Senior Adv., with Mr. C. S. Samudra and M.M.
Agnihotri, Advs., for respondent.

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CORAM : A. S. CHANDURKAR, J.

DATE : 09th March, 2018

Petitioner who is the tenant of premises admeasuring about 500 sq. ft. which is owned by the respondent has challenged the order passed on the application for fixation of interim standard rent.

The respondent initiated proceedings under Section 8 of the Maharashtra Rent Control Act, 1999 [for short, "the said Act"] for determination and fixation of standard rent. According to the respondent, the suit premises were initially let out in the year 1961 and with the passage of time, the standard rent of the premises would be Rs.30,000/- per month. In those proceedings, the petitioner filed his reply and opposed the determination of standard rent. The respondent filed an application under provisions of Section 8 (4) (b) of the said Act for determining interim standard rent. This

application was opposed by urging that the proceedings themselves were not maintainable and hence no interim rent could be fixed. By the impugned order, the trial Court has fixed the interim rent at Rs.10,000-00 per month from the date of the application.

Shri S. Jagirdar, learned counsel for the petitioner, submitted that the proceedings of fixation of standard rent were not maintainable, inasmuch as the requirements of Section 9 of the said Act were not satisfied. He submitted that without any structural changes or alternation being carried out, the respondent sought fixation of standard rent. It was submitted that the rent was increased from time to time and there was no material on record to indicate that the same was insufficient. It was, therefore, urged that without there being any basis, the interim rent was fixed at Rs.10,000/- per month.

Shri S. G. Aney, learned Senior Counsel for the respondent, submitted that as the remedy of challenging the interim order by invoking the revisional jurisdiction was available, the present Writ Petition need not deserve to be entertained. Without prejudice to the aforesaid, he submitted that the adjudication by the impugned order is purely of an interim nature and it was open for the petitioner to lead appropriate evidence and contest the main proceedings. It was also submitted that the proceedings for fixation of standard rent were

maintainable in view of provisions of Section 8 of the said Act.

I have heard the learned counsel for the parties and I have perused the impugned order.

In the light of provisions of Section 8 (1) (d) of the said Act, it is open for the landlord to seek fixation of standard rent and permitted increases if the rent is inadequate. It is only if there has been an earlier adjudication fixing the standard rent that a subsequent application is not maintainable except on the fulfillment of the contingencies mentioned in Section 9 of the said Act. Such is not the case here. The present proceedings are the first proceedings for determining the standard rent. The same are, therefore, maintainable.

Perusal of the impugned order indicates that it has been found by the trial Court that in the vicinity of the suit premises the prevailing rent was Rs.20/- per square foot per month. On that count, the interim rent was fixed at Rs.10,000/- per month. This adjudication being of an interim nature and there being some material to support that interim conclusion, I am not inclined to interfere at this stage. Hence, without going into the question of maintainability of a revision application under Section 34 of the said Act, I find that the trial Court can be directed to expedite the said proceedings and determine the standard rent.

In view of aforesaid, by observing that the order passed by the trial Court merely determines the interim rent which would be subject to final adjudication in the proceedings under Section 8 of the said Act, the said order is maintained. Needless to state that after the parties lead evidence, the trial Court would be free to fix the standard rent by considering all the evidence and in accordance with law. Any observations made in this order would not prejudice either party. In case the standard rent determined is less than the interim rent already fixed, same shall be adjusted by the respondent. By leaving respective contentions open, the Writ Petition is disposed of.

Judge

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