

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH : NAGPUR.**

**LETTERS PATENT APPEAL NO.194/2012 IN**  
**WRIT PETITION NO.779/2011(D)**

Narayan s/o Ambadas Kothale (**since dead through LRs**)- Smt. Vanida wd/o  
Narayanrao Kothale and others  
Vs.  
Himmatlal s/o Manikchand Dhruv.

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

None for the parties.

**CORAM :- A.S.CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.**  
**DATED :- September 21, 2021.**

This Letters Patent Appeal was listed on 9<sup>th</sup> September, 2021. As the learned counsel for the appellant was not present, the appeal was adjourned to 15<sup>th</sup> September, 2021. On that day also since there was no appearance on behalf of the appellant, the appeal was kept today.

It is seen from the record that the appellant is the original plaintiff who had filed suit for eviction of the respondent under the provisions of Maharashtra Rent Control Act, 1999 (for short, 'the said Act'). The trial Court decreed the suit. An appeal was filed by the tenant under Section 34 of the said Act challenging that decree. The District Court allowed that appeal and the said judgment was challenged by the original plaintiff in Writ Petition No. 779/2011. By the impugned judgment the said writ petition has been dismissed.

It is found that in view of the decisions in *Ramdayal G. Khandelwal Vs. Mahendra B. Khandelwal and ors. 2021(4) Mh.L.J.653* as well as in Letters Patent Appeal No.495/2011 in Writ Petition No.4699/2011 (Ansilee S/o Vakayil Verghese Vs.Ravi

Prakash S/o Mohanrao Jangade) decided on 16.09.2021, a Letters Patent Appeal challenging the judgment passed in a writ petition that arises out of the orders passed by the Small Causes Court and thereafter the District Court under the provisions of said Act, is not maintainable.

In view of aforesaid position, it is held that Letters Patent Appeal No.194/2012 is not maintainable and it is disposed of as such. It is open for the appellants to raise a challenge to the judgment of the learned Single Judge in Writ Petition No.779/2011 in accordance with law. Points raised in the Letters Patent Appeal are kept open. The parties shall bear their own costs.

**JUDGE**

**JUDGE**

*Andurkar.*