

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

WRIT PETITION NO.1534 OF 2021

**WAJED FAROOQUI MASUD FAROOQUI
VERSUS
WALI MOHAMMAD KHAN ALIAS BABU MECHANIC JUMMA KHAN**

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Advocate for Petitioner : Mr. Vijay B. Patil
Advocate for Respondent : Mr. V. B. Kulkarni

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th JULY, 2022

PER COURT :

1. This petition filed under Article 226 and 227 of the Constitution of India, challenges the order dated 15/06/2020 passed by the learned District Judge-7, Jalna, in Regular Civil Appeal No.128/2019, thereby allowing the appeal filed by the respondent.
2. The petitioner filed Regular Civil Suit No.231/2017 against the respondent, under Sections 15 and 16 of the Maharashtra Rent Control Act, 1999 (for short 'the said Act') seeking possession of the rented property from the defendant/respondent on the ground of non-payment of rent and since the rented premises was required by the petitioner for personal use. Admittedly, before the trial Court respondent has failed to file written statement and lead any evidence. The trial Court has partly decreed the suit and directed

defendant/respondent to pay arrears of Rs.10,800/- to the plaintiff/petitioner and to give vacant possession of the suit house to the plaintiff/petitioner.

3. Being aggrieved, the respondent challenged the said decision of trial Court by filing appeal. The appellate Court after hearing the parties has allowed the appeal only by taking into consideration the provisions of Section 15 of the said Act. In the impugned order, there is no whisper about ground of bonafide requirement on which the trial Court has allowed the suit filed by the petitioner. Non-application of mind on the part of appellate Court is writ large on the face of record. Since the ground of bonafide requirement is not at all dealt with by the appellate Court, the impugned order cannot sustain and the same is hereby quashed and set aside.

4. The matter is remanded back to the appellate Court for consideration on merits after giving opportunity of hearing to both the parties. The appellate Court shall decide the appeal in accordance with law, preferably within a period of six months from the date of receipt of writ of this order.

5. With these directions the writ petition is allowed.

(NITIN B. SURYAWANSHI, J.)