

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

WRIT PETITION NO. 2478 OF 2020

Shaila Bhalchandra Bhagwat (Since
deceased through her legal heir &
representative) Pandharinath Bhalchandra
Bhagwat

...Petitioner

Versus

Prafulla Dattatraya Phadake

...Respondent

Mr. Vijay N. Bolinjkar for the Petitioner
Mr. Akash Warang for the Respondent

CORAM : NITIN W. SAMBRE, J.

DATED : 22nd AUGUST, 2022

P.C.:

1. The application Exhibit-199 was taken out by the petitioner/defendant nos. 1 & 2 in the RCS No. 57 of 2009 which is for possession by the landlord on the ground of arrears of rent.
2. The said application moved u/s. 8 of the Maharashtra Rent Control Act, 1999 (for short "the said Act") came to be rejected vide order impugned dated 19/12/2019. As such, this petition.
3. According to the counsel for the petitioner Mr. Bolinjkar, the order impugned suffers from illegality as the Court below though has accepted the petitioner/defendant no. 2 as legal heirs of the defendant no. 1 has proceeded to pass the order on consideration

that the plaintiff has claimed that the defendant no. 2 i.e. the petitioner has no authority in law to continue in possession as tenant. According to him, section 8 empowers the Court to entertain the application Exhibit-199 and as such, the Court below committed error.

4. The order impugned is supported by the Counsel for the respondent/plaintiff.

5. I have appreciated the aforesaid submissions.

6. With the assistance of the counsel for the petitioner, I have perused the written submissions particularly paragraph nos. 4 & 5.

7. According to him, the said paragraph nos. 4 & 5 in fact satisfy the very requirement under section 8 of the said Act wherein the petitioner is claiming that the standard rent which was earlier Rs. 140/- should be fixed.

8. What can be noticed from the very pleadings of the petitioner that the petitioner has failed to specifically averred about the existence of the dispute about standard rent and there needs to be an issue decided. Admittedly issues are framed and the petitioner has not contested the claim of fixation of the standard rent therein.

9. In the aforesaid background, it cannot be held that the

petitioner has right to claim the fixation of standard rent pursuant to the provisions under section 8 of the Act.

10. For the aforesaid reasons, it appears that conclusion drawn by the Trial Court in the order impugned is justified. That being so no case for inference is made out. The petition as such fails and stands dismissed.

11. However, this order does not preclude the petitioner from moving for an amendment in the written statement, which be decided and considered in accordance with law.

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(NITIN W. SAMBRE, J.)