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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.489 OF 2017**

Shri Dattatray Dighe Applicant.

V/s

Shri Pundlik Shriniwas Prabhu Respondent.

Ms. Anita Bhaktwani for the Applicant.

CORAM: NITIN W. SAMBRE, J.

DATE: JULY 25, 2022

P.C.:-

1] Heard.

2] In response to Court's query, Counsel for Revision Applicant/tenant submits that suit premises are already demolished.

3] Apart from above, contentions are, Applicant is entitled for benefit under Section 15A of the Maharashtra Rent Control Act, as according to her, Applicant becomes deemed tenant in the backdrop of pleadings of Respondent/Plaintiff.

4] I have appreciated said submissions.

5] At the outset, it is required to be noted that the Applicant has not entered into witness box but has executed Power of Attorney in favour of the present occupant. The said occupant was subjected to cross-examination in which he admits that he is unable to identify signature of the Applicant/tenant over the Power of Attorney.

6] In the aforesaid backdrop, Appellate Court, in my opinion, was justified in ignoring not only pleadings which were duly signed by the Power of Attorney but also his evidence. Apart from above, this Court is required to be sensitive to the fact that Trial Court, while rejecting prayer of the Respondent/landlord for eviction, has recorded finding that the document i.e. leave and license agreement even though was claimed to have been lost in one of the court proceedings, in the absence of secondary evidence, since the said document was not proved, suit came to be dismissed.

7] As far as the judgment of Appellate Court is concerned, fact

remains that Appellate Court, while framing the points for consideration, has categorically considered the issue of existence of leave and license agreement and status of the Applicant as that of a licensee.

8] In the wake of the aforesaid observations as regards the fact that the Applicant has not contested the claim by himself entering into witness box but through irregular Power of Attorney, in my opinion, Appellate Court was justified in recording finding that Applicant is a licensee.

9] In this background, no case for interference in revisional jurisdiction, either for want of jurisdiction or failure to exercise jurisdiction is made out. Revision as such fails and same stands dismissed.

(NITIN W. SAMBRE, J.)