

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

CRA NO.8 OF 2017

**NALUBAI PRABHAKAR CHAHAN AND OTHERS
VERSUS
BHAGWAN GAJADHAR SHARMA (CHOUBE) AND OTHERS**

...
Advocate for Applicants : Mr. Praveen B. Gamot
Advocate for respondent Nos. 1 to 5 : Mr. Amol Gandhi holding for
Mr. M. B. Vaishnav

...

CORAM : S. G. MEHARE, J.

DATE : 25.09.2023

PER COURT :

1. Heard the learned counsel for the applicants and learned counsel for the respondents.
2. The respondents had filed a suit for recovery of the possession under Sections 15(2) and 16 of the Maharashtra Rent Control Act 1999. The defendants/tenant had filed an application under Order VII Rule 11(d) of the Code of Civil Procedure, praying to reject the plaint as a statutory compliance of a notice under Section 15 (2) of the Maharashtra Rent Control Act was not done.
3. considering the facts and relevant provisions of the law, the learned trial court dismissed the application.

4. The learned counsel for the applicant submits that unless the statutory notice demanding the arrears of the rent as provided under Section 15 of the Maharashtra Rent Control Act is served, the suit is not tenable; it is a statutory requirement, the suit was barred.

5. If any compliance has not been done or if there are defects in the plaint, the tenant has the right to defend the suit. The suit was not filed only on the grounds of default in paying the regular rent, but it was also filed under Section 16 of the Maharashtra Rent Control Act, which covers many grounds for eviction.

6. The application that the applicants filed was misconceived. The defendant/tenant had a right to defend the suit on the legal defects. The court did not find substance in the application. The impugned order rejecting the application below Exhibit-13 in Regular Civil Suit No.266 of 2016, dated 2 January 2017, is legally correct. There is no substance in the petition. Hence, the petition stands dismissed.

7. Needles to state the interim order granting protection stands vacated.

(S. G. MEHARE)
JUDGE