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

CIVIL REVISION APPLICATION NO.124 OF 2023

Arogya Sahakari Mandali Ltd. Through
Authorised Signatory, Mahesh Digambar
Waychal ... Applicant

V/s.

The Maharashtra Mills Pvt. Ltd. & Ors ... Respondents

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Mr. Abhijit Kulkarni i/by Mr. Abhijit Associates, for
Applicant (Through V. C.).

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 29, 2023

P.C.:

1. The applicant is defendant No.4 who filed an application under Order 7, Rule 11 of the Code of Civil Procedure, 1908 (for short 'CPC') raising objection to maintainability of the suit on the ground that the suit is barred for want of issuance of notice under Section 164 of the Maharashtra Co-operative Societies Act, 1960.
2. Respondent No.1 filed Regular Civil Suit No.457 of 2021 seeking recovery of possession of the suit property.
3. According to petitioner, the suit property was initially owned by one Madhav Narayan Deshmukh on lease dated 13 December 1933, it was leased out to the plaintiff that right to induct sub-lessee. In exercise of such right, by lease dated 13 October 1949,

the suit property was leased in favour of one Appaso @ Appasaheb Gangadhar Hiremath for a period of 71 years on payment of yearly rent. On 20 May 1990, the legal representatives of Appaso @ Appasaheb Gangadhar Hiremath relinquishing the lease holding right in favour of the plaintiff.

4. The applicant is in possession of the suit property.
5. According to the plaintiff, the applicant and sub defendants have no right to continue with the possession of the suit property and therefore, they filed suit for possession of suit property.
6. The applicant filed an application under Order 7, Rule 11 of CPC contended that the suit is not maintainable for want of notice under Section 164 of the Maharashtra Co-operative Societies Act, 1960. Apart from the said objection, it was contended that the suit is barred under the provisions of Maharashtra Land Revenue Code, 1966 and Maharashtra Paragana and Kulkarni Vatan (Abolition) Act, 1950.
7. The Trial Court has rejected the application.
8. According to learned Advocate for the applicant, the expression 'touching the business of the society' needs to be construed in the light of the object of the Act and the purposes of the laws. According to him, the transactions, the plaintiff touches business of the society and, therefore, notice under Section 164 of the Maharashtra Co-operative Societies Act, 1960 is mandatory.
9. On perusal of the averments in the plaint, it appears that the suit is filed for enforcement of civil rights. According to the

plaintiff, the status of applicant is that of trespasser and, therefore, notice under Section 164 of the Maharashtra Co-operative Act is not necessary.

10. On perusal of the plaint, it appears that the plaintiff is enforcing his civil rights. From the avements in the plaint, it appears that there is no privity of contract between the plaintiff and the present applicant. In absence of such contract, the suit has been filed by the plaintiff appears to be for enforcement of civil rights. Therefore, the conclusion drawn by the Trial Court based on meaningful reading of the plaint that the subject matter of the suit would not touch the business of the society. There is no error of jurisdiction committed by the Trial Court.

11. The civil revision application is, therefore, dismissed.

(AMIT BORKAR, J.)