

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15477 OF 2022

GOLDEN LEGEND LEASING AND FINANCE)
LTD. AND ANOTHER)...PETITIONERS

V/s.

MR.DILIP MANOHAR AMLADI AND ORS.)...RESPONDENTS

WITH

INTERIM APPLICATION NO. 4733 OF 2023
IN
WRIT PETITION NO. 15477 OF 2022

MR.DILIP MANOHAR AMLADI AND ORS.)...APPLICANTS

V/s.

GOLDEN LEGEND LEASING AND FINANCE)
LTD. AND ANOTHER)...RESPONDENTS

Mr.Sunil Kumar Singh, Advocate for the Petitioners.

Mr.Girish Godbole, Senior Advocate with Mr.Raj Patel, Ms.Neha Mehta, Ms. Aayushi Gohil i/b. M/s.M.T.Miskita & Co., Advocate for the Applicants in I.A.No.4733 of 2023 and for the Respondents in W.PNo.15477 of 2022.

CORAM : ABHAY AHUJA, J.

RESERVED ON : 8th JUNE 2023
PRONOUNCED ON : 5th JULY 2023

JUDGMENT :

1. This Petition filed under Article 227 of the Constitution of India challenges the order dated 23rd December 2021 passed by the Additional Commissioner, Konkan Division, Mumbai, in Appeal/Desk/MRCA/Rev/531/2021 dismissing the Revision Application filed by the Petitioners against the order dated 20th October 2021 of the Competent Authority under the Maharashtra Rent Control Act, 1999, (the “Rent Control Act”) confirming the said order directing eviction of the Petitioners from Flat No.16, admeasuring approximately 1200 sq.feet built up area on the 6th floor (the “said flat/premises”) of the Galaxy Apartment Co-operative Housing Society Limited, in the building known as Galaxy, standing upon land situate at 111, B.J.Road, Bandra (West), 400 050.

2. The brief facts are that in or about 21st January 2019, the Petitioner no.1 and the Respondents entered into a Leave and License Agreement registered with the Joint Sub Registrar, Mumbai Sub Division, Bandra, pursuant to which the Respondents granted to Petitioner no.1 license to use the said premises for a period of 36 months viz. from 22nd January 2019 to 21st January, 2022 and the

Petitioner no.1, as a licensee, would pay monthly license fees /compensation of Rs.2,25,000/- for the first twelve months i.e. from 22nd January 2019 up to 21st January 2020 and thereafter Rs.2,36,250/- for the next twelve months i.e. from 22nd January 2020 to 21st January 2021 and further Rs.2,48,000/- during the last twelve months of the licensed period i.e. from 22nd January 2021 upto 21st January 2022. The Respondent no.1 was to make payment of license fees in advance during the license period so as to reach the Respondents-landlord / licensor no later than two days from the commencement of each and every quarterly period during the license period, subject to deduction of TDS, in accordance with the applicable provisions of the Income Tax Act 1961. The Respondent no.1 also deposited interest free security deposit of Rs.6,75,000/- as per the said agreement to be refunded after deducting lawful dues post receiving possession of the said flat/premises as per the terms of the agreement.

3. As per the agreement, the Respondents were entitled to terminate the said agreement in any of the circumstances where the Petitioner no.1 had committed breach of default of the terms and provisions of the said agreement and / or if any licensee fees or other amounts / charges payable by the Petitioner no.1 under the said

agreement were in arrears and remained unpaid for a period of seven days after the same had become due and payable and in which case the Respondents would be entitled to terminate the said agreement by giving the Petitioners notice in writing specifying breach of default and calling upon the Petitioners to remedy or make good the same. If the Petitioners failed or neglected to remedy to make good the breach of default within a period of fifteen days from the date of such written notice, then the said agreement would stand terminated and cancelled upon the expiry of such notice period of fifteen days.

4. It is the case of the Respondents that the Petitioners were irregular in paying the license fees to the Respondents post April 2019 and therefore, the Respondents were compelled to follow up with the Petitioner no.2 and her husband on numerous occasions for payment of the license fees since April 2019, but since despite the follow up, the license fees continued to be in arrears, the Respondents were constrained to send various notices commencing from notice dated 19th June 2020 to the Petitioners/licensee calling upon them to make payment of the arrears of the license fees, failing which the license agreement would stand terminated and to hand over the said flat / licensed premises to the Respondents on such termination.

5. The Petitioner made part payments from time to time in response to the notices issued by the Respondents and assured the Respondents of the balance payments and the Respondents kept accommodating the Petitioner who continued to occupy the said flat.

6. It is the case of the Respondents that since the Petitioners neither vacated the licensed premises/the flat nor paid the outstanding license fees, the Respondents addressed termination notice dated 22nd January 2021 under Clause 17(a)(i) of the license agreement to remedy the breach and for payment of license fees of Rs.8,50,700/- for the month of September 2020 to January 2021 along with other utility charges within a period of fifteen days, failing which the license agreement would stand terminated and cancelled on the expiry of the notice period, upon which, the Petitioners were called upon to hand over quiet, vacant and peaceful possession of the licensed premises to the Respondents.

7. It is submitted that the Petitioners by their Advocate's letter dated 25th January 2021 and 5th February 2021 admitted their liability. That since the Petitioners neglected the demand of the Respondents and continued unauthorized possession over the licensed premises,

while failing to pay the arrears of rent, the Respondents filed an application before the Competent Authority under the provisions of Section 43 of the Rent Control Act for the following reliefs on 17th March 2021:

- a. This Hon'ble Authority be pleased to order and direct the Respondent to vacate and hand over quiet, vacant and peaceful possession of the said Licensed Premises on the sixth floor of the building known as "Galaxy Apartments", situate at 111, B.J.Road, Bandra (West), 400 050 along with furniture, articles, fixtures and amenities and facilities provided therein and a car parking space;*
- b. The Respondent be ordered to pay to the applicants the arrears of rent, compensation and damages i.e. Rs.8,50,700.00 accruing as on 01.02.2021 with liquidated damages at Rs.15,750/- per day with double the agreed license fees from the date of termination of the license agreement till handing over the vacant and peaceful possession of the licensed premises.*
- c. That pending the hearing and final disposal of the present application, the Respondent be ordered and directed to deposit Rs.8,50,700.00 accruing as on 01.02.2021 with liquidated damages Rs.15,750/- per day along with further arrears of the license fees from 01.02.2021 till such deposit is made before this Hon'ble Forum and the applicants be allowed to withdraw the same.*
- d. This Hon'ble Authority be pleased to order and direct the Respondent to make payment of the tax deducted at source and furnish to the applicants a proof of payment thereof.*

8. By the said application, the Respondents have also averred that the Petitioner had made itself liable for paying the damages as contemplated under Section 24(2) of the Rent Control Act and the sums mentioned in paragraph 23 thereof, in addition to

vacating the licensed premises and handing over vacant and peaceful possession to the Respondents.

9. The Petitioners filed an application under Section 43(4)(a) of the Rent Control Act, 1999 before the Competent Authority seeking leave to defend which was opposed by the Respondents by filing a reply. The Competent Authority, Rent Control Act Law Code, Konkan Division, Mumbai, vide order dated 20th October 2021 rejected the Petitioners' application for Leave to Defend and by order of the same date allowed the Eviction Application filed by the Respondents by passing the following order :

- “i) The application is allowed.*
- ii) The Respondent no.1 and 2 are hereby directed to hand over vacant and peaceful possession of flat no.16, admeasuring approximately 1200 square feet built up area, on the sixth floor of the building known as ‘Galaxy Apartments’ situated at 111, B.J.Road, Bandra (West), 400 050 and enclosed garage admeasuring approximately 190 square feet in a structure in the compound of the Galaxy Apartments along with furniture, articles, fixtures and amenities and facilities provided therein within thirty days to the applicants.*
- iii) The Respondent no.1 is directed to make a payment of arrears of license fee a sum of Rs.8,50,700/- to the applicants within 30 days.*
- iv) The Respondent no.1 is further directed to make a payment of license fee at the double rate i.e. 2,48,100 x 2 = 4,96,200 per month from 06.02.2021 to till hand over the possession of application premises to the applicants as damages.*

v) *The applicants at liberty to appropriate the security deposit, if any.”*

10. Aggrieved by the same, the Petitioners filed a Revision Application before the Additional Commissioner, Konkan Division, under Section 44 of the Maharashtra Rent Control Act, inter alia, raising the ground of applicability of the Rent Control Act in view of Section 3(1)(b) thereof as the Petitioner had a paid up capital of more than 1 Crore. The Revisional Authority dismissed the Revision Application vide judgment dated 23rd December 2021 confirming the order of the Competent Authority dated 20th October 2021 without considering the issue under Section 3(1)(b) of the Rent Control Act . Aggrieved by the same, the Petitioners are before this Court seeking the following relief :

“That this Hon’ble Court may be pleased to issue a writ of certiorari or any such other appropriate writ, order or direction in the nature of certiorari thereby calling upon the records and proceedings pertaining to the judgment dated 23.12.2021 and after examining the legality, validity and propriety thereof, the same be quashed and set aside the judgment dated 23.12.2021 passed by the Additional Commissioner, Konkan Division, Mumbai in Appeal/Desk/MRCA/Rev/531/2021.”

11. I have heard Mr.Sunil Kumar Singh, learned Counsel for the Petitioners and Mr.Girish Godbole, learned Senior Counsel for the

Respondents and with their able assistance I have perused the papers and proceedings as well as compilation of documents in the matter and considered the rival contentions.

12. Mr.Sunil Singh, learned Counsel for the Petitioners would submit that the paid up capital of the Petitioners is Rs.14.87 crores as per the website of the Ministry of Corporate Affairs on 11th November 2021 (at page 253 of the Petition) which is more than Rs.1 crore, and therefore, the Eviction Application filed by the Respondents is not maintainable under Section 3(1)(b) of the Rent Control Act, and therefore, the Respondents could not have filed the application against the Petitioner no.1 under Section 43 of the Maharashtra Rent Control Act. Learned Counsel would submit that the Revisional Authority has failed to consider or even deal with this ground and therefore the Petition ought to be allowed. Learned Counsel relies upon the following decisions in support of his contention :

- 1) *EEPC India vs. Additional Commissioner, Konkan Division, Mumbai & Ors.*¹
- 2) *Bhatia Co-operative Housing Society Limited vs. DC Patel*²
- 3) *Da'Cunha Associates Pvt. Ltd. vs. Dilip Janghiani & Others*³

1 2020 (5) Mh.L.J. 585

2 (1952) 2 SCC 355

3 2010 (6) Mh.L.J. 132

13. On the other hand, Mr. Godbole, learned Senior Counsel, assisted by Mr. Raj Patel opposed the submissions made on behalf of the Petitioners. The learned Senior Counsel would submit that the Petitioners are against the concurrent findings of the Trial Court and the Revisional Court. He would submit that the Petition deserves to be dismissed as the Revisional Court has, vide order dated 23rd December 2021 (i) rejected the Application filed by the Petitioners and (ii) Confirmed the order of the Competent Authority dated 20th October 2021 which directed as follows:

- (i) handover vacant and peaceful possession of the License Premises to the Respondents
- (ii) directed the Petitioners to pay the arrears of license fees of Rs. 8,80,700/- (As on 5th February 2021) within a period of 30 days and
- (iii) a further payment of license fees at double the rate i.e. Rs. 2,48,100/- x 2 = Rs. 4,96,200/- per month from 6th February, 2021 till handing over of the possession of the premises in question (in terms of section 24 (2) of Maharashtra Rent Control Act 1999).

14. Learned Counsel for the Respondents would submit that the contention of the Petitioners/Licensee with regard to the applicability of the Act and/or lack of jurisdiction of the Competent Authority is completely erroneous and is misplaced. He would submit that a perusal of section 3(1)(b) of the Rent Control Act suggests that the exemption under section 3(1)(b) is applicable to the premises which are 'let' to

companies having paid up share capital of more than Rs.1 crore and not in the event where the premises are granted on '*license basis*'.

15. The word 'let' has not been defined, however, as per Dictionary meaning 'let' means "*to offer (property) for lease; to rent out*". Thus, the exemption under 3(1)(b) is applicable to the premises which have been let out and/or given on tenancy. In the present case in hand, it is an admitted position, that a mere 'License' was granted to the Petitioner/Licensee to use the Licensee Premises for a fixed tenure under the License Agreement. It is submitted that in the case of License, the judicial possession of the premises always continues to remain with the Licensor.

16. That, therefore, the question non-applicability of the Rent Control Act does not and cannot arise. The legislature, was clear in its language in the section that the exemption is applicable to companies (having paid up capital of more than one crore) in the event premises are '*let out*' and/or leased only and has carefully excluded the applicability of the exemption in the case of grant of a '*license*'.

17. Learned Counsel submits that the definition of the word ‘licensee’ under the Rent Control Act provides that the expression “premises given on license” shall be construed accordingly. The entire definition means premises under a subsisting agreement for license given for a license fee. This definition also indicates a clear distinction, that premises given on license is different and distinct from premises which are let out. It is further submitted, that the above position, i.e. the premises were granted to the Petitioner by the Respondent/Licensor on a ‘*license basis*’ has not been disputed by the Licensee/Petitioners at any stage of the proceeding.

18. Without prejudice to the above, it is submitted on behalf of the Respondents that section 24 of the Rent Control Act provides for an exclusive jurisdiction of the Competent Authority for the recovery of the possession in the cases where the premises are granted on ‘*license basis*’ and that Section 24 of the said Act also starts with a non-obstante clause.

19. That the legislature has provided that provisions of the Rent Control Act *would apply to the premises given on license for residential purposes* and also that an agreement of license in writing shall be

conclusive evidence of the fact stated therein. That, in the present case, the License Agreement executed between the parties is registered document and therefore is conclusive evidence of the facts stated therein.

20. Learned Counsel for the Respondents also refer to the definition of Section 7(5) which defines 'licensee' as well as Chapter VII of the Rent Control Act which provides for Summary Disposal of the Certain Applications including Section 41. That Section 41(c) provides that for the purposes of summary disposal of Applications under section 24 of the Act, a Landlord would mean to include, a person who has given premises on license for residence or successor-in-interest referred to in section 24 of the Act. It is also submitted that Section 47 bars the jurisdiction of a Civil Court with respect to the matter which the Competent Authority or the State or an Officer is empowered by or under the Rent Control Act.

21. Learned Senior Counsel would submit that, therefore, from a harmonious construction of sections 7(5), 24, 41(c) and 47 of the Rent Control Act, it would indicate that in the present case the Petitioner No.1 is a licensee, the licensed premises is the premises given on

license and the Respondents are the landlord/licensor. Since the licensor/landlord provided their flat/license Premises on license basis for residential use, the only remedy available to the Respondents herein for recovery of the possession of their premises lies under section 24 of the Rent Control Act and that as per Section 47 of the Act, no civil court would have jurisdiction in respect of any matter (recovery of possession of the premises granted on license) in which the Competent Authority is solely empowered to try matters of this nature.

22. Learned Counsel also refer to Sections 42 and 43 of the Rent Control Act which provide for the procedure for the disposal of Applications under Sections 22, 23 and 24 of the Act and submit that Section 43(4)(b) is of a summary nature and a jurisdiction is vested with the Competent Authority, to dispose of Applications under Sections 22, 23 & 24 of the Act, summarily.

23. It is also submitted on behalf of the Respondents that Section 24 is pari-materia of section 13A-2 of the erstwhile Bombay Rents, Hotels & Lodging Houses Rates Control Act, 1947 (the “*earlier Act/erstwhile Rent Act*”). That, this Section was introduced by way of Bombay Rent Control Amendment Act, 1986. The object in incorporating this Section

in the earlier Act was to encourage the system of giving premises by the landlords on license basis and on failure of the licensee to deliver premises of the licensed premises to the landlord on expiry of period of license to enable the landlord to get possession of licensed premises speedily. That, the entire object of Section 24 of the said Act would be frustrated and defeated if it is held that the said premises are exempted under the said Act by virtue of Section 3(1)(b) and the Respondents should exercise its remedy of recovering possession by way of a regular suit before a Civil Court or before a Small Causes Court under Section 41 of the Presidency Small Causes Court Act (like in the case of a premises given on license for non-residential purpose).

24. Learned Counsel for the Respondents have placed reliance on the decision of *Afsar Shaikh Vs. PN. Kaul & Anr.*⁴ to submit that the object of Section 13(A)(2) of the earlier Act which is pari-materia with Section 24 of the Rent Control Act has been explained by this Hon'ble Court in that matter.

25. In view of the aforesaid, learned Senior counsel submits that the (i) Exemption under section 3(1)(b) is not available to the Petitioners,

⁴ 1997 (2) BOM.C.R. 456

being a licensee (ii) Section 24 of the Act is the only recourse available to the Respondent/licensor for recovery of the possession of the license Premises granted under license for residential use.

26. It is submitted on behalf of the Respondents that, therefore, the Petitioners have failed to make out any ground whatsoever for the interference of this Hon'ble Court in its writ Jurisdiction against the concurrent findings of the lower Authorities and that the Writ Petition be dismissed with costs.

27. This court in the case of *EEPC India Vs. Additional Commissioner, Konkan Division, Mumbai and others (supra)* had the occasion to consider the submissions very similar to the ones made on behalf of the Respondents in this Petition. It was argued on behalf of the Petitioner thereof that the Petitioner being exempt from the provisions of the Rent Control Act, the Competent Authority had committed jurisdictional error by entertaining the application for eviction by the Respondents under section 24. On the other hand, learned counsel for the Respondents therein had argued that the provisions of section 24 of the Act would operate notwithstanding anything contained in the Act. This Court (Gupte J.) after considering

Section 3 of the Rent Control Act as well as section 24 of the said Act, observed that section 3(1)(b), which exempts premises as opposed to the relationships from the provisions of the Act, is a fundamental provision of the Act which operates vis-a-vis each and every provision of the Act and there is no reason why it should not operate even as regards section 24 of the Rent Control Act. It was further held that if any premises are exempt from the application of the Rent Control Act, there is no reason why such exemption shall not extend to section 24. A non-obstante clause usually appended to a provision of law as an opening, is designed to give the enacting part of the provision in case of a conflict with either with other provisions of the same enactment or other enactments, an overriding effect over these later provisions. It is by its very nature premised on a conflict; if there is no conflict between the other provisions contained within the ambit of the non-obstante clause and the enacting part of the clause, there is no question of overriding these provisions or other provisions or otherwise giving effect to the non-obstante clause. Once it is clear that each and every premises covered by section 3(1)(b) are excluded from the operation of the Act, there is no possibility of any conflict as between the application of section 24 and any other provision of the Rent Control Act to such premises. The provisions of the Rent Control Act (including section 24)

are uniformly inapplicable to such premises. The non-obstante clause within section 24 merely implies that as for premises to which the Act applies whenever there is any conflict between the other provisions of the Act and section 24, it is the latter that would prevail. There is thus no question of section 24 taking precedence over section 3(1)(b). Paragraph 5 of the said decision is, therefore, usefully quoted as under :-

“5. Before we come to the deemed tenancy of the Petitioner, which is the real nub of the controversy, since both submissions of the Petitioner turn on it, we may dispose of a couple of subsidiary points. The first is the submission of Mr.Vachasundar that the non-obstante clause of Section 24 takes precedence over the exempting clause contained in Section 3(1) (b) of the Act. Sections 3(1)(b) and 24 are quoted below :

"3. Exemption.

(1) This Act shall not apply ----

(b) to any premises let or sub-let to banks, or any Public Sector Undertakings or any Corporation established by or under any Central or State Act, or foreign missions, international agencies, multinational companies, and private limited companies and public limited companies having a paid up share capital of more than rupee one crore or more.

Explanation. - For the purpose of this clause the expression "bank" means,-

(i) the State Bank of India constituted under the State Bank of India Act, 1955;

(ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980; or

(iv) any other bank, being a scheduled bank as defined in clause

(e) of section 2 of the Reserve Bank of India Act, 1934."

24. Landlord entitled to recover possession of premises given on license on expiry.

(1) Notwithstanding anything contained in this Act, a licensee in possession or occupation of premises given to him on license for residence shall deliver possession of such premises to the landlord on expiry of the period of license; and on the failure of the licensee to so deliver the possession of the licensed premises, a landlord shall be entitled to recover possession of such premises from a licensee, on the expiry of the period of license, by making an application to the Competent Authority, and, the Competent Authority, on being satisfied that the period of license has expired, shall pass an order for eviction of a licensee.

(2) Any licensee who does not deliver possession of the premises to the landlord on expiry of the period of license and continues to be in possession of the licensed premises till he is dispossessed by the Competent Authority shall be liable to pay damages at double the rate of the license fee or charge of the premises fixed under the agreement of license. (3) The Competent Authority shall not entertain any claim of whatever nature from any other person who is not a licensee according to the agreement of license.

Explanation- For the purposes of this section,-

(a) the expression "landlord" includes a successor-in-interest who becomes the landlord of the premises as a result of death of such landlord; but does not include a tenant or a sub-tenant who has given premises on license;

(b) an agreement of license in writing shall be conclusive evidence of the fact stated therein."

As is obvious, Section 3(1)(b), which exempts premises, as opposed to relationships, from the provisions of the Act where a government company or a public sector undertaking is a tenant, is a fundamental provision of the Act, which operates vis-a-vis each and every provision of the Act and there is no reason why it should not operate even as regards Section 24 of the Act. If any premises are exempt from the application of the Act, there is no reason why such exemption shall not extend to Section 24. A non-obstante clause, usually appended to a provision of law as an opening, is designed to give the enacting part of the provision, in case of a conflict with either other provisions of the same enactment or other enactments, an overriding effect over these latter provisions. It is, by its very nature, premised on a conflict; if there is no conflict between the other provisions contained within the ambit of the non-obstante clause and the enacting part of the clause, there is no question of overriding these other provisions or, in other words, giving effect to the non-obstante clause. Once it is clear that each and every premises, covered by Section 3(1)(b), are excluded from the operation of the Act, there is no possibility of any conflict as between the application of Section 24 and any other provision of the Act to such premises. The provisions of the Act (including Section 24) are uniformly inapplicable to such premises. The non-obstante clause within Section 24 merely implies that as for premises to which the Act applies, whenever there is any conflict between the other provisions of the Act and Section 24, it is the latter that would prevail. There is, thus, no question of Section 24 taking precedence over Section 3(1)(b)."

28. Observing thus, this court in the said decision in the case of *EEPC India Vs. Additional Commissioner, Konkan Division, Mumbai and others (supra)* held that there is no way the competent authority could entertain an application in respect of such premises.

29. In *Bhatia Co-operative Housing Society Limited Vs. D.C.Patel (supra)*, the Hon'ble Supreme Court had the occasion to consider the jurisdiction of the Small Causes Court vis-a-vis the City Civil Court in respect of a premises which belonged to the Government as section 4 (1) of the erstwhile Bombay Rents Hotel and Lodging House Rates Control Act, 1947 provided that the said Act would not apply to any premises belonging to the Government or the local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or recognition by the Government but it shall apply in respect of premises let to the Government or local authority. In that case the contention of the appellant society was that the demised premises belonged to the trustees for the improvement of the City of Bombay and therefore, belonged to Bombay Municipality both of which bodies were local authorities and therefore, the erstwhile Bombay Rent Act did not apply to the demised premises. There the Respondent urged that the object of the said Act as recited in the preamble was *inter-alia* to control rent and therefore, the object of the legislation was that the provisions of the Act would be applicable only as between the landlord and tenant. That section 4(1) provided for an exemption or exception to the general object. The purpose of the first two parts of section 4(1)

was to exempt two cases of relationship of landlord and tenant from the operation of the Act namely (1) where the government or local authority lets out premises belonging to it and (2) where the government lets out premises taken out on lease or requisitioned by it. That the second part of section 4(1) quite clearly exempted “any tenancy or other like relationship” created by the Government but the first part made no reference to “any tenancy or any like relationship” at all but exempted the premises belonging to the Government or local authority. The intention of the first part were as formulated in item (1) then the first part of section 4(1) like the second part would have been different. The Hon’ble Apex Court in paragraph 13 concluded that the Legislature did not by the first part intend to exempt the relationship of landlord and tenant but intended to confer on the premises belonging to the Government and the immunity from the operation of the Act. Repelling the contentions made on behalf the Respondent in the said decision the Hon’ble Supreme Court opined that the consideration of the protection of the interest of the sub-tenants in premises belonging to the Government or local authority can not override the plain meaning of the preamble of the first part of section 4(1) of the erstwhile Rent Act and frustrate the real purpose of protecting and furthering the interests of the Government and the local

authority by conferring on its property an immunity from the operation of the Act. Paragraphs 10 to 13 of the said decision is usefully quoted as under :

“10. The main controversy between the parties is as to whether the Act applies to the demised premises. The solution of that controversy depends upon a true construction of Section 4(1) of the Bombay Act LVII of 1947, Which runs as follows:-

“4. (1) This Act shall not apply to any promises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the\$ Government in respect of premises,taken lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority.”

11. It is clear that the above sub-section has three parts, namely-

(1) This Act shall not apply to premises belonging to the Government or a local authority, (2) This Act shall not apply as against the Government to any tenancy or other like relationship created by grant from the Government in respect of premises taken lease or requisitioned by the Government, (3) This Act shall apply in respect of premises lot out to the Government or a local authority.

12. The contention of the appellant Society is that the demised premises belonged to the Trustees for the improvement of the City of Bombay and now belong to the Bombay Municipality both of which bodies are local authorities and, therefore, the Act does not apply to the demised premises. Learned counsel for the respondent, however, urges that the object of the Act, as recited in the preamble, is inter alia, to control rent. It follows, therefore, that the object of the legislation was that the provisions of the Act would be applicable only as between the landlord and tenant. Section 4 (1) provides for an exemption from or exception to that general object. The purpose of the; first two parts of Section 4(1) is to exempt two cases of relationship of

landlord and tenant from the operation of the Act, namely, (1) where the Government or a local authority lets out premises belonging to it, and (2) where the Government lets out premises taken on lease or requisitioned by it. It will be observed that the second part of Section 4 (1) quite clearly exempts "any tenancy or other like relationship" created by the Government but the first part makes no reference to Any tenancy or other like relationship at all but exempts the premises belonging to the Government or a local authority. If the intention of the first part were as formulated in item (1), then the first part of Section 4 (1), like the second part, would have run thus:-

"This Act shall not apply to any tenancy or other like-relationship created by Government or local authority in respect of premises belonging to it."

13. *The Legislature was familiar with this form of expression, for it adopted it in the second part and yet it did not use that form in the first. The conclusion is, therefore, irresistible that the Legislature did not by the first part intend to exempt the relationship of landlord and tenant but intended to confer the premises belonging to Government an immunity from the operation of the Act."*

30. This Court in the case of *Da'cunha Associated Pvt. Ltd., Mumbai Vs. Dilip Jhangiani and Others*⁵ (R.C.Chavan, J) had the occasion to consider the provisions of Section 3(1)(b) of the Rent Control Act, and to compare it with Section 4 of the erstwhile Bombay Rent Act. After comparing and considering both the provisions, this Court observed that since premises are subject matter of any tenancy to which rent legislation applies, both Section 4 of the erstwhile Bombay Rent Act and Section 3(1)(b) of the Rent Control Act, stipulate that the Acts will

⁵ 2010 (6) Mh. L. J.

not apply to the premises. But these premises are not identified by criteria like geographical location or historical importance but the criteria of the owners' occupants' status. Though "premises" are exempted, such premises have to be identified with entities having a defined status. It has been held in the case of ***Leelabai Gajanan Pansare and Others vs. Oriental Insurance Company Limited and Others***⁶ that as to why premises tenanted by particular class of entities were sought to be excluded. The question whether the tenant belongs to that class decides whether the premises are exempted. Relying upon and reiterating the principles laid down by the Hon'ble Supreme Court in the case of *Bhatia Co-operative Housing Society Ltd. vs. D.C.Patel (supra)* it was held in that case that, the premises in that case would be excluded from the applicability of the provisions of the Rent Act, since the tenant, the Respondent No. 5 in the matter was having a paid up capital of more than 1 crore. The exclusion from protection, it was held, applies to the premises tenanted by Respondent No.5 and not just to the relationship of Respondent No. 1 with Respondent No.5. In short, the said decision of this Court has also reiterated the law on the point that Section 3 of the Rent Control Act would have precedence over all other provisions of the Rent Control Act. And if the Act does not apply

⁶ (2008) 9 SCC 720

to a particular premises, then the applicability of the other provisions of the said Act cannot be considered. Paragraphs 20 to 34 are relevant and are usefully quoted as under:

“20. It may be seen that Section 4(1) of the Bombay Rent Act begins with the words: “This Act shall not apply to any premises.....”.

Relevant portion of Section 3 of the Maharashtra Rent Act reads thus :-

(i) This Act shall not apply

(a) to any premises belonging to

Clause (a) of sub-section 3 is substantially sub-section (1) of Section 4 of the old Act. Both the Clauses contain the same expression ‘to any premise’. Therefore, the contention is that Section 3(1)(b) of the new Act applies to premises and not to particular category of tenants. For this purpose reliance was placed by the learned Senior Counsel for the landlord on Judgment of the Supreme Court in Bhatia Co-operative Housing Society Ltd. v. D. C. Patel, reported at (1953) Supreme Court Reports 185 where the Supreme Court was considering applicability of the provision of the Bombay Rent Act to premises belonging to local authority in the light of provision of Section 4(1) of the said Act. The Court held as under :-

“Learned counsel for the respondent took a preliminary objection, founded on the provisions of section 28 of the Bombay Act, that the City Civil Court had no jurisdiction to entertain the suit, for that section clearly states that in Greater Bombay the Court of Small Causes alone shall have jurisdiction to entertain and try any suit between a landlord and a tenant relating to the recovery of rent or possession of any premises to which any of the provisions of that Part of the Act applied and to decide any application made under the Act and to deal with any claim or question arising out of the Act and no other Court should have jurisdiction to entertain any suit or

proceeding or to deal with such claim or question. If, as contended for by the appellant, the Act does not apply to the premises, then section 28, which is an integral part of the Act and takes away the jurisdiction of all Courts other than the Small Causes Court in Greater Bombay, cannot obviously be invoked by the respondent. The crucial point, therefore, in order to determine the question of the jurisdiction of the City Civil Court to entertain the suit, is to ascertain whether, in view of section 4 of the Act, the Act applies to the premises at all. If it does, the City Civil Court has no jurisdiction but if it does not, then it has such jurisdiction. The question at once arises as to who is to decide this point in controversy. It is well settled that a Civil Court has inherent power to decide the question of its own jurisdiction, although, as a result of its enquiry, it may turn out that it has no jurisdiction over the suit. Accordingly we think, in agreement with the High Court, that this preliminary objection is not well founded in principle or on authority and should be rejected. The main controversy between the parties is as to whether the Act applies to the demised premises. The solution of that controversy depends upon a true construction of section 4(1) of the Bombay Act LVII of 1947, which runs as follows:-

“4(1) This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority. It is clear that the above sub-section has three parts, namely -

(1) This Act shall not apply to premises belonging to the Government or a local authority.

(2) This Act shall not apply as against the Government to any tenancy or other like relationship created by grant from the Government in respect of premises taken on lease or requisitioned by the Government,

(3) This Act shall apply in respect of premises let out to

the Government or a local authority.

The contention of the appellant Society is that the demised premises belonged to the Trustees for the improvement of the City of Bombay and now belong to the Bombay Municipality both of which bodies are local authorities and, therefore, the Act does not apply to the demised premises. Learned counsel for the respondent, however, urges that the object of the Act, as recited in the preamble, is inter alia, to control rent. It follows, therefore, that the object of the legislation was that the provisions of the Act would be applicable only as between the landlord and tenant. Section 4(1) provides for an exemption from or exception to that general object. The purpose of the first two parts of section 4(1) is to exempt two cases of relationship of landlord and tenant from the operation of the Act, namely, (1) where the Government or a local authority lets out premises belonging to it, and (2) where the Government lets out premises taken on lease or requisitioned by it. It will be observed that the second part of section 4(1) quite clearly exempts any tenancy or other like relationship created by the Government, but the first part makes no reference to any tenancy or other like relationship at all, but exempts the premises belonging to the Government or a local authority. If the intention of the first part were as formulated in item (1), then the first part of section 4(1), like the second part, would have run thus :-

“This Act shall not apply to any tenancy or other like relationship created by Government or local authority in respect of premises belonging to it. The Legislature was familiar with this form of expression, for it adopted it in the second part and yet it did not use that form in the first. The conclusion is, therefore, irresistible that the Legislature did not by the first part intend to exempt the relationship of landlord and tenant but intended to confer on the premises belonging to Government an immunity from the operation of the Act. Learned counsel for the respondent next contends that the immunity given by the first part should be held to be available only to the Government or a local authority to which the premises belong. If that were the intention then the Legislature

would have used phraseology similar to what it did in the second part, namely, it would have expressly made the Act inapplicable as against the Government or a local authority . This it did not do and the only inference that can be drawn from this circumstance is that this departure was made deliberately with a view to exempt the premises itself. It is said that if the first part of the section is so construed as to exempt the premises from the operation of the Act, not only as between the Government or a local authority on the one hand and its lessee on the other, but also as between that lessee and his subtenant, then the whole purpose of the Act will be frustrated, for it is well known that most of the lands in Greater Bombay belong to the Government or one or other local authority, e.g., Bombay Port Trust and Bombay Municipality and the greater number of tenants will not be able to avail themselves of the benefit and protection of the Act. In the first place, the preamble to the Act clearly shows that the object of the Act was to consolidate the law relating to the control of rents and repairs of certain premises and not of all premises. The Legislature may well have thought that an immunity given to premises belonging to the Government or a local authority will facilitate the speedy development of its lands by inducing lessees to take up building leases on terms advantageous to the Government or a local authority. Further, as pointed out by Romar L.J. in *Clark v. Downes* (1931) 145 L.T.20, which case was approved by Lord Goddard C.J. in *Rudler v. Franks* (1947) 1 K.B.530 such immunity will increase the value of the right of reversion belonging to the Government or a local authority. The fact that the Government or a local authority may be trusted to act fairly and reasonably may have induced the Legislature all the more readily to give such immunity to premises belonging to the Government or a local authority but it cannot be overlooked that the primary object of giving this immunity was to protect the interests of the Government or a local authority. This protection requires that the immunity should be held to attach to the premises itself and the benefit of it should be available not only to the Government or a local authority but also to the lessee deriving title from it. If the benefit of

the immunity was given only to the Government or a local authority and not to its lessee as suggested by learned counsel for the respondent and the Act applied to the premises as against the lessee, then it must follow that under section 15 of the Act it will not be lawful for the lessee to sublet the premises or any part of it. If such were the consequences, nobody will take a building lease from the Government or a local authority and the immunity given to the Government or a local authority will, for all practical purposes and in so far as any rate as the building leases are concerned, be wholly illusory and worthless and the underlying purpose for bestowing such immunity will be rendered wholly ineffective. In our opinion, therefore, the consideration of the protection of the interests of the sub-tenants in premises belonging to the Government or a local authority cannot override the plain meaning of the preamble or the first part of section 4(1) and frustrate the real purpose of protecting and furthering the interests of the Government or a local authority by conferring on its property an immunity from the operation of the Act.

.....

In our view in the case before us the demised premises including the building belong to a local authority and are outside the operation of the Act. This Act being out of the way, the appellants were well within their rights to file the suit in ejectment in the City Civil Court and that Court had jurisdiction to entertain the suit and to pass the decree that it did.

(emphasis supplied)

This view was followed up by the Supreme Court in Parwati Bai v. Radhika, reported at JT 2003(5)SC 34 to which my attention was drawn by the learned Senior Counsel for Respondent No.1. The Supreme Court was considering provisions of the Madhya Pradesh Accommodation Control Act, 1961 which were similar to those of the Bombay Rent Act. In that case, premises belonging to a Municipality, taken on rent by the landlord had been sublet to a tenant. The landlord sought tenant's ejectment, bypassing the provision of the Madhya Pradesh Accommodation Control Act, 1961,

contending that since ownership of premises vested in Municipality, the provisions of the Act were not applicable. Right up to High Court tenant's plea that he had the protection of the Madhya Pradesh Accommodation Control Act, 1961, as the plaintiff was not the Municipality, was upheld. Allowing the appeal and ordering tenant's ejectment, the Supreme Court held :-

4. It is well settled by a decision of the Court in Bhatia Cooperative Housing Society Ltd. v. D.C.Patel, 1953 (4) SCR 185 wherein pari materia provisions contained in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 came up for consideration of this Court. It was held that the exemption is not conferred on the relationship of landlord and tenant but on the premises itself making it immune from the operation of the Act. In identical facts, as the present case is, the decision of this Court was followed by the High Court of Madhya Pradesh in Radheylal Somsingh v. Ratansingh Kishansingh, 1977 MPLJ, 335 and it was held that the immunity from operation of the Madhya Pradesh Accommodation Control Act, 1961 is in respect of the premises and not with respect to the parties. If a tenant in municipal premises lets out the premises to another, a suit by the tenant for ejectment of his tenant and arrears of rent would not be governed by the Act as the premises are exempt under section 3(1)(b) of Act though the suit is not between the municipality as landlord and against its tenant. We find ourselves in agreement with the view taken by the High Court of Madhya Pradesh in Radheylal's case. It is unfortunate that this decision binding in the State of Madhya Pradesh was not taken note of by the courts below as also by the High Court .

22. In Dattaram Tukaram Bordekar, since deceased by his heirs and legal representatives Versus Prakash Dattatraya Tiwatane, reported at 1992(2) Bom.C.R.598 a learned Single Judge of this Court held that provision of Section 4 of the Bombay Rent Act applied to premises and not persons.

23. In Carona Ltd. Versus Parvathy Swaminathan & Sons, reported at (2007) 8 Supreme Court Cases 559 the Supreme

Court considered reduction of share capital by a Company after its tenancy was terminated and held that it would still lose the protection of Rent Act in view of provision of Section 3(1)(b) of the Maharashtra Rent Control Act, 1999. It is doubtful if this Judgment could be an authority for the proposition that Section 3(1)(b) applies to premises and not persons. It only underlines that crucial date for finding out which provision applies is the date on which right is sought to be exercised.

24. In Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman and others, reported at AIR 1970 Supreme Court 1575 on which the learned Senior Counsel placed reliance the Supreme Court was considering an objection to jurisdiction of the Court which passed the decree taken in execution proceedings, on the ground that land in question was agricultural land not amenable to Court exercising jurisdiction under the Bombay Rent Act. In this context the Supreme Court held that crucial date for considering applicability of the Act would be the date on which the right is sought to be exercised.

25. It is doubtful if Judgment in M/s. Crompton Greaves Ltd. v. State of Maharashtra, reported at AIR 2002 BOMBAY 65 would be of help in resolving the controversy since the challenge therein was to the validity of S.3(1)(b) of Maharashtra Rent Control Act, 1999. In Saraswat Bank Vs. State, reported at (2006) 8 SCC 520, the Supreme Court upheld constitutional validity of S. 3(1)(b) of the Maharashtra Rent Control Act, 1999.

26. The learned Senior Counsel for the applicant submitted that though both sub-clauses (a) and (b) of Section 3(1) of the Maharashtra Rent Act use similar expression to any premises, Section (3)(1)(b) is aimed at specified entities and not the premises themselves. He pointed out that this question had been considered by the Apex Court in Leelabai Pansare's case and in view of this Judgment, directly interpreting Section 3(1) (b), it may not be necessary or permissible to rely on earlier Judgments for interpreting the provision by drawing analogy.

27. In Leelabai Gajanan Pansare and Others versus Oriental

Insurance Company Limited And Others, reported at (2008) 9 Supreme Court Cases 720 the Supreme Court was considering the following point for determination. Point for determination 49. Whether the High Court was right in holding that the word PSUs in Section 3(1)(b) excluded government companies as defined under Section 617 of the 1956 Act.

28. After discussing historical and other aspects, the Court observed in paragraph 58 that Section 3(1)(b) was introduced to exclude cash rich entities from the protection of the Rent Act. The Court then went on to hold as under :-

59..... In our view, the changes made in the present Rent Act by which landlords are permitted to charge premium, the provisions by which cash-rich entities are excluded from the protection of the Rent Act and the provision providing for annual increase at a nominal rate of 5% are structural changes brought about by the present Rent Act, 1999 vis-a-vis the 1947 Act. The Rent Act of 1999 is the sequel to the judgment of this Court in Malpe Vishwanath Acharya v. State of Maharashtra, (1998) 2 SCC. ...

61. In the light of the discussion mentioned hereinabove, we need to interpret Section 3(1)(b). The said clause excludes entities enumerated therein from the protection of the said Rent Act, namely, banks, PSUs, statutory corporations, foreign missions, international agencies, multinational companies and private limited companies and public limited companies having a paid-up share capital of Rs.1,00,00,000 or more....

70....In the present case, we find that the legislature has opted for an economic criterion, namely, entities which are in a position to pay rent at market rates are to stand excluded from Rent Act protection. This is the test of financial capability. This is the golden thread which runs through Section 3(1)(b). Be it banks, PSUs, statutory corporations, multinational companies, foreign missions, international agencies and public and private limited companies having a paid-up share capital of Rs.1,00,00,000 or more stand excluded from the Rent Act protection. This criterion has been selected by the

legislature knowing fully well that each of these entities including PSUs can afford to pay rent at the market rates.

74....Applying this test, we hold that Section 3(1)(b) clearly applies to different categories of tenants, all of whom are capable of paying rent at market rates. Multinational companies, international agencies, statutory corporations, government companies, public sector companies can certainly afford to pay rent at the market rates. This thought is further highlighted by the last category in Section 3(1)(b). Private limited companies and public limited companies having a paid-up share capital of more than Rs.1,00,00,000 are excluded from the protection of the Rent Act. This further supports the view which we have taken that each and every entity mentioned in Section 3(1)(b) can afford to pay rent at the market rates.

29. In the light of these rulings, it has to be decided if Section 3(1)(b) applies to premises or a class of tenants. There can be no doubt the expression used in Section 3(1)(b) to indicate the incidence of legislation, or its object, is same as that used in Section 4 of the Bombay Rent Act which has been interpreted by the Supreme Court in B Co-operative Housing Society Ltd. and followed up in Parwati Bai. It cannot also be doubted that Judgment in Bhatia Cooperative Housing Society Ltd. had not come up for reconsideration in Leelabai's case and has not been (and could not have been) overruled by the bench of Apex Court, deciding Leelabai's case. The contention that when similar expression is used it ought to be similarly interpreted cannot also be overlooked. But the question is, is there any conflict in the two Judgments to infer that Judgment in Bhatia Cooperative Housing Society Ltd., will no longer be applicable ?

30. Since the premises are subject matter of any tenancy to which Rent legislation applies, both Section 4 of the Bombay Rent Act and Section 3(1)(b) of the Maharashtra Rent Act stipulate that the Acts will not apply to premises.- But these premises are not identified by criteria like geographical location or historical importance, but, the criteria of owner's occupant's status. Though premises are exempted, such

premises have to be identified with entities having the defined status. The elaborate discussion Leelabai Pansare's case would show as to why premises tenanted by particular class of entities were sought to be excluded. Therefore, the question whether the tenant belongs to that class decides whether the premises are exempt. At the cost of repetition attention may be drawn to observations of the Supreme Court in Bhatia Cooperative Housing Society Ltd. drawing a distinction in expression used while granting exemption to premises taken on lease by the Government and the premises belonging to the Government; which reads as under :-

The purpose of the first two parts of section 4(1) is to exempt two cases of relationship of landlord and tenant from the operation of the Act, namely, (1) where the Government or a local authority lets out premises belonging to it, and (2) where the Government lets out premises taken on lease or requisitioned by it. It will be observed that the second part of section 4(1) quite clearly exempts any tenancy or other like relationship created by the Government, but the first part makes no reference to any tenancy or other like relationship at all, but exempts the premises belonging to the Government or a local authority. If the intention of the first part were as formulated in item (1), then the first part of section 4(1), like the second part, would have run thus :- This Act shall not apply to any tenancy or other like relationship created by Government or local authority in respect of premises belonging to it. The Legislature was familiar with this form of expression, for it adopted it in the second part and yet it did not use that form in the first. The conclusion is, therefore, irresistible that the Legislature did not by the first part intend to exempt the relationship of landlord and tenant but intended to confer on the premises belonging to Government an immunity from the operation of the Act...

(emphasis supplied)

31. The provisions of Section 3 of the Maharashtra Rent Act are similarly worded. There is nothing in the judgment in Leelabai Pansare's case to indicate that exemption will not

apply to the premises tenanted by the entity fulfilling the criteria, or would apply only to relationship. It will be improper to read the Judgment out of the context of the question which it was considering-which was only if PSUs were excluded from the exemption granted. Therefore, it is impermissible to conclude that observations in Bhatia Cooperative Housing Society Ltd., will not apply to interpretation of Section 3(1)(b) of the Maharashtra Rent Act or that any different interpretation it can be decided from Judgment in Leelabai Pansare's case. It would, therefore, follow that the premises would be excluded from applicability of provisions of the Rent Act since the tenant is Respondent No.5.

32. The learned Counsel for the Applicant submitted that the object of inserting this clause (b) in Section 3(1) of the Maharashtra Rent Control Act, 1999 is explained in Leelabai Pansare's case - namely to exclude cash rich corporations from the protection of the Rent Act. Therefore, according to the learned Counsel excluding the premises rather than entity, would have consequences not intended by the legislature. He submitted that such an interpretation would result in withdrawal of protection to entities like the applicant which is not a cash rich entity having a paid capital of over Rs.1 crore, and would thus defeat the object of legislation.

33. As rightly pointed out by the learned Senior Counsel for Respondent No.1, the landlord, if the line of reasoning proposed by learned Counsel for applicant were to be accepted, cash rich corporations would be able to defeat the exclusion from protection by simply inducting as subtenants its employees or even entities created by itself having a paid up capital of less than Rs.1 crore. It cannot be the business of a Corporation covered by Section 3(1)(b) of the Rent Act to sublet premises taken on rent, when it does not need them.

34. Secondly, need of going to object of legislation for the purpose of interpretation of a clause would arise only if there is any ambiguity. In Bhatia Cooperative Housing Society Ltd., the Supreme Court has clearly demonstrated that had the legislature so desired, it could have phrased the clause

differently. While enacting Section 3(1)(b) of the Maharashtra Rent Control Act, 1999, the law makers had the benefit of Judgment in Bhatia Cooperative Housing Society Ltd., rendered years ago. It will have to be presumed that the legislature still chose the same expression for carving out an exclusion because it intended to exclude premises and not relationship-or an entity. It is settled canon of interpretation that same expression used at different places in the same piece of legislation must be given the same meaning wherever it is used. Accepting the argument of the learned Senior Counsel for the Applicant would lead to an anomalous situation of the same expression being interpreted differently in two clause of one subsection. Therefore, howsoever inconvenient the interpretation might be for the applicant, it has to be held that the exclusion from protection applies to the premises tenanted by Respondent No.5 and not just to the relationship of Respondent No.1 with Respondent No.5.”

31. Further, the reliance by the learned Counsel for the Respondents on the decision of this Court in the case of *Afsar Shaikh Vs. P.N. Kaul (supra)*, in my view is misplaced. No doubt Section 13A(2) of the earlier Act is pari-materia with Section 24 of the Rent Control Act, however, the said case was not considering the applicability of Section 3(1)(b) or the erstwhile section 4(1) which is the issue in question in this case. This Court in the case *EEPC India vs. Additional Commissioner, Konkan Division, Mumbai & Ors. (supra)* has clearly observed that once the premises covered by Section 3(1)(b) are excluded from the operation of the Rent Control Act there is no possibility of any conflict as between Section 24 and other provisions of

the Rent Control Act to such premises. That, therefore, there would be no question of section 24 taking precedence over Section 3(1)(b). Clearly that was not the question which the Court was called upon to be answered in *Afsar Shaikh Vs. PN. Kaul(supra)*. Moreover, in that decision this Court was considering the case of a license which had come to an end on 1st July 1986 and was not subsisting on 1st October 1987 when the Act introducing section 13A(2) was brought into effect. Hence, the said decision does not assist Respondents' case.

32. Therefore, the contention of the Respondents that if it is held that the said premises are exempted under the Act by virtue of Section 3(1)(b) and the Respondents should exercise its remedies available by way of a Regular Suit before the Civil Court, the entire object of Section 24 would be frustrated, cannot be countenanced, as that is neither in line with the basic principles of interpretation of statutes, nor the scheme of the Rent Control Act.

33. Ergo, applying the principles settled by the Hon'ble Supreme Court as well as the law enunciated by this Court in the decisions discussed above, to the case of the Petitioner, whose paid up capital admittedly is more than one crore, in my view, the provisions of the

Maharashtra Rent Control Act, 1999, would not apply, thereby meaning that the application filed by the Respondents under Section 24(1) of the Rent Control Act is not maintainable. The Competent Authority had no jurisdiction to entertain the application filed by the Respondents in view of the clear provisions of Section 3(1)(b) of the Rent Control Act and consequentially the Revisional Authority also lacked jurisdiction. Therefore, the order of the Revisional Authority confirming the decision of the Competent Authority must also go. The impugned order of the Revisional Court as well as the Competent Authority thus deserve to be quashed and set aside. The order dated 23rd December 2021 of the Revisional Authority as well the order dated 20th October 2021 of the Competent Authority are hereby quashed and set aside. In view of the above, the other arguments on behalf of the Respondents do not merit any consideration.

34. The Petition is allowed as above.

35. It is made clear that if Respondent No.2/3 have any other remedy in law to evict the Petitioners, this order shall not prejudice such remedy and the Respondents are at liberty to pursue such remedy, as may be available to them in law.

36. It is observed that pursuant to an order of this court dated 20th December 2022, the Petitioners have deposited an amount of Rs.25,00,000/- in this Court and the Petitioners through Counsel during the arguments have expressed their no objection if the said amount, with interest if any, is allowed to be withdrawn by the Respondents.

37. Accordingly, let the amount of Rs.25,00,000/- with interest, if any, be withdrawn by the Respondents.

38. Interim Application No.4733 of 2023 to accordingly stand disposed. Parties to bear their own costs.

(ABHAY AHUJA, J.)