



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 4233 OF 2022

Subhash S. Karkhanis

...Petitioner

Versus

Muslim Asgar Umrethwala Thr. POA
Hajee Ebrahim Hassim Patel and ors.

...Respondents

.....

Mr. Ambadas Chatuphale for the Petitioner.
Mr. Sadashiv N. Kadam for Respondent Nos. 1A to 1E.

.....

CORAM : N.R. BORKAR, J.

DATED : 21 AUGUST 2023

P.C. :-

1. The respondent No.1/landlord had filed a suit for eviction and possession against the petitioner/tenant inter-alia on the ground of default in payment of rent. The suit was dismissed. The appeal filed by the respondent No.1 came to be allowed and the petitioner is directed to handover the vacant possession of the suit premises.

2. The learned counsel for the petitioner submits that in terms of Section 15(2) of the Maharashtra Rent Control Act, 1999, no suit for recovery of possession can be instituted by a landlord against the tenant on the ground of non-payment of rent until expiration of ninety days after notice in writing of the demand of the rent has been served upon the tenant in the manner provided in Section 106 of the Transfer of Property

Act. It is submitted that no such notice was issued by the respondent No.1/landlord before instituting the suit. It is submitted that the appellate court thus committed an error in setting aside the Judgment of the trial court and decreeing the suit on the ground of default in payment of rent.

3. The appellate court has recorded the finding that the petitioner is in arrears of rent since 1 January 1999 and the said finding is not shown to be perverse.

4. It appears that due to involvement of the tenants in the offences punishable under the provisions of the Maharashtra Protection of Interest of Depositors Act, the suit premises was attached and sealed under the provisions of the said Act in the year 2000. The respondent No.1/landlord was, thus, required to move an application to Designated Court and got the attachment release.

5. Considering the overall facts and circumstances, no interference is called for in the impugned Judgment and Decree. Writ Petition is dismissed.

(N.R. BORKAR, J.)