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

WRIT PETITION NO. 7666 OF 2023

Prabodh Prakash Shenai
represented by his father Prakash R. Shenai
as Constituted Attorney ...Petitioner
Versus
Haridas Bakaram Kakade & Anr. ...Respondents

Dr. Prakash R. Shenai, Constituted Attorney of the Petitioner present.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 23rd JUNE 2023**

P.C. :

1. Heard Dr. Prakash Shenai i.e. Constituted Attorney of the Petitioner and father of the Petitioner.
2. Dr. Shenai states that by earlier order passed by the Hon'ble Chief Justice, he has been allowed to appear in person in the suits filed by his son in his capacity as Constituted Attorney of his son.
3. Dr. Prakash Shenai states that the impugned order dated 25th April 2023 passed by the learned Judge, Small Causes Court, Mumbai is passed below Exhibits 59, 64 and 70 in R.A.D. Suit No.120 of 2014.

The said applications were filed seeking amendment in the plaint. By the impugned order, the said applications were rejected with cost of Rs.5,000/-.

4. However, in the decision of the Full Bench of this Court in the matter of **Bhartiben Shah vs. Smt. Gracy Thomas & Ors.**¹, it has inter alia been held that leave to amend the plaint or written statement, where the proposed amendment is for assertion of rights or liabilities under the Rent Act or any other substantive law, the revision lies under Section 34(4) of the Maharashtra Rent Control Act, 1999. Perusal of the amendment application which has been reproduced in the impugned order shows that the same inter alia are concerning assertions of rights and liability under the Rent Act or any other substantive law.

5. Therefore, in the light of the law laid down by the Full Bench, the Writ Petition is disposed of by observing that the Petitioner, who is aggrieved by order dated 25th April 2023 is at liberty to adopt the appropriate proceedings.

6. As far as other prayers in the Writ Petition are concerned, Dr. Prakash Shenai failed to point out that he has sought said relief before

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the learned Trial Court and any order has been passed. Therefore, the Writ Petition cannot be entertained directly as regards other prayers.

7. It is clarified that this Court has not considered the merits of the case and all the contentions on merits are expressly kept open.

8. The Writ Petition is accordingly disposed of with no order as to costs.

[MADHAV J. JAMDAR, J.]