



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

SECOND APPEAL NO. 185 OF 2015

The State of Maharashtra through
The Collector, Ahmednagar and others .. Appellants

Versus

Himtlal Lilachand Desai
Since deceased through his L.Rs.
Asha Himmaltal Desai and others .. Respondents

Shri B. A. Shinde, A.G.P. for the Appellants.
Shri V. Y. Bhide, Advocate for the Respondent Nos. 1B to 1G.

CORAM : SHAILESH P. BRAHME, J.
DATE : 08TH OCTOBER, 2025.

FINAL ORDER :

. Heard both sides.

2. Appellants are challenging alternate findings of facts in the present second appeal as they are facing decree of recovery of an amount of Rs. 1,12,995/-.

3. Learned Assistant Government Pleader for the appellants submits that substantial question of law involved in this matter pertains to absence of any written contract as well as registered contract between the parties. He would submit that there is nothing on record which would indicate that respondent No. 1 is entitled to have revised rent retrospectively. The reliance placed

on photo copy of unregistered agreement, which is executed unilaterally has no probative value. It is further submitted that lower Appellate Court committed error of jurisdiction in relying upon the correspondence at Exhibit Nos. 54, 55, 36 to 39 to come to the conclusion that there was contract between the parties for revision of the rent. It is further submitted that Appellate Court has arrived at the conclusion on the basis of conjuncture and surmises. It is further submitted that the revision of the rent to the tune of Rs. 5,850/- per month has no foundation and it is not corroborated by any certificate of the competent authority. It is contended that the respondent failed to discharge the burden of proving the arrears to the tune of Rs. 1,12,995/-. Despite that lower Appellate Court granted decree, which is perverse.

4. Per contra, learned counsel Mr. Bhide for the respondents supports the lower Appellate Court's judgment. It is contended that there was no written contract between the parties. The surrounding circumstances would indicate the agreement for revision of the rent. It is submitted that both the parties had agreed for revision of rent, which is evident from the correspondence of the respondent with other authorities or the higher authorities. The findings recorded by the lower Appellate Court cannot be said to be perverse, but they are plausible and reasonable.

5. The controversy pertains to the premises of 1900 square feet let out by the respondent to the appellants for operating a

police station. There is no written contract as such, which is registered between the parties. No lease deed was executed between them. But the premises of the respondent was let out to the appellants and initially rent of Rs. 1,500/- was fixed cannot be disputed. Both the Courts below have recorded finding that there exists landlord - tenant relationship between the parties.

6. Appellants are responsible public officers. They have taken premises on rent from a private person. They should have taken abundant precaution in executing registered agreement or the lease. It is impermissible for them to contend that there was no written contract between the parties. The respondent cannot be blamed for not having any contract of lease or registration thereof.

7. I find that appellants occupied the premises and had a police station at a taluka place. The rent was paid from 01.01.1992 to 31.12.1994. It was revised thereafter. It was revised from 01.01.1995 to Rs. 1,665/- is not disputed much. Under these circumstances, I find that the appellants cannot claim that in the absence of any agreement between the parties it is impermissible for the respondent to claim any revision or the arrears of the rent.

8. It is informed by both the learned counsels that the premises is vacated and handed over to the respondents, as appellants have acquired their own premises for running police

station. Respondent relied upon unregistered document dated 18.01.1994, which is a photo copy. The original was sent tendered to the appellants for securing their signatures, but the same was not returned. Hence a photo copy remained with the respondent disclosing unilaterally execution of agreement. In view of the law laid down by this Court no permission for secondary evidence is required. Reference can be made to the judgment of the Coordinate Bench in the matter of Parasanbai Dhanraj Jain and others Vs. Sunanda Mashukar – Jadhav and others reported in *2018(1) Mh. L. J. 788*. Under the facts and circumstances of the case, though agreement dated 18.01.1994 is not exhibited, I am of the considered view that the probative value cannot be undermined.

9. Parties had arrived at revision of rent is apparent from Exhibit Nos. 54 and 55 and letters at Exhibit Nos. 34 to 39. The lower Appellate Court has rightly dealt with these documents. The probative value cannot be questioned. The letters issued by the appellants inter se or with their higher authorities cannot be disputed. The revision of rent was acceptable to them as can be reflected from the correspondence. In that view of the matter, the claim of the revision of rent at Rs. 5,850/- from 01.01.2002 till 31.12.2004 cannot be said to be unreasonable or illegal.

10. The appellants are the public bodies and the revision of rent was subject to the expert's opinion of Executive Engineer, P.W.D. Sangamner, who is appellant No. 2 herein. Had there

been any objection on revision of rent on some technical issue, the appellant No. 2 would have reported it to the appellants. No material is placed on record by the appellants that the revision of rent was not permissible or it was objected. Interestingly, appellants did not lead any oral evidence. Under these facts and circumstances, I do not find any perversity or illegality in the impugned judgment and decree.

11. No substantial question of law can be said to be involved in the matter. Second appeal is dismissed.

[SHAILESH P. BRAHME J.]

bsb/Oct. 25