



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.1819 of 2023

Vilas Ramdas Nagrale

vs.

Bayabai Narayan Yergude (Deceased), through L.R. & others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. Y.A. Kullarwar, Advocate for the Petitioner.
Mr. R.R. Bagde, Advocate for Respondent Nos.2 & 3.*

CORAM : ROHIT W. JOSHI, J.
DATE : 12th NOVEMBER, 2025.

Heard.

02. M.J.C. No.185/2020 was filed by the present petitioner under Section 29(3) of the Maharashtra Rent Control Act, 1999 (hereinafter referred to as "Act" for brevity) seeking direction for restoration of electricity connection. Earlier, the petitioner had moved application for restoration of electricity connection in R.C.S. No.212/2015, which is a suit for injunction filed by the present petitioner against the respondents seeking decree for perpetual injunction against forcible dispossession. The said application was initially rejected by the learned Trial Court on the ground that the tenancy of the petitioner was disputed by the respondents in the said suit. The present petitioner thereafter preferred an appeal challenging the said order being M.C.A. No.4/2018, which was dismissed on the ground of maintainability.

03. Perusal of the judgment will demonstrate that the respondents had placed reliance on the judgment of this Court in Writ Petition 12003 of 2016 (Aurangabad Bench), wherein it is held that the application under Section 29(3) of the Act cannot be filed in a pending civil suit and it has to be filed by way of an independent proceeding. The

said judgment was cited before the learned Appellate Court. The learned Appellate Court also held that the appeal against order passed under Section 29(3) of the Act is not maintainable.

04. In this backdrop, when proceedings under Section 29(3) of the Act is filed, the learned Trial Court has rejected the same on the ground of *res judicata* in view of earlier order dated 16/12/2017 passed by the learned Trial Court on application at Exh.22 in R.C.S. No.212/2015. Since, the earlier order is passed in the proceedings, which is without jurisdiction, as is held in Writ Petition No.12003 of 2016, it will obviously not operate as *res judicata*.

05. In view of the above, impugned order dated 16/11/2022 passed by the learned Civil Judge Senior Division, Chandrapur in M.J.C. No.185/2020 is quashed ad set aside. The matter is remitted back to the learned Trial Court for deciding the application on merits in accordance with law. There shall be no order as to costs.

JUDGE

**sandesh*