



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.6/2025

Kamlakar Narayanrao Dange .Vs. Manohar Ramkrushna Shekokar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. K. Mishra, Advocate for petitioner.
Mr. P. R. Agrawal, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 5, 2025

On 06.01.2025, following order was passed.

“The contention is that apart from the fact that the suit filed by the respondent for recovery of possession under the provisions of the Maharashtra Rent Control Act, 1999 (for short “the said Act”), was not maintainable, the application under Section 8 of the said Act could not have been filed in a suit for recovery of possession. Such application is maintainable only where a suit is for recovery of rent.

2] In support, the petitioner’s Counsel has placed reliance upon the judgment passed by a Coordinate Bench of this Court in the case of Perfect Auto, Amravati Vs. Santosh Narsingdasji Agrawal [2023(2)Mh.L.J. 640].

3] Issue notice to the respondent returnable on 27/1/2025.

4] In the meantime, there shall be stay to the execution and implementation of the impugned order dated 7/8/2024 passed below Exh. 5 by the 2nd Joint Civil Judge Senior Division, Amravati, in Special Civil Suit No. 120/2023.”

2. As could be seen, the petitioner’s counsel had placed reliance upon the judgment passed by Coordinate Bench of this Court in **Perfect Auto Amravati Vs. Santosh Narsingdasji Agrawal [2023(2) Mh.L.J. 640]**, to contend that the application under Section 8 of the Maharashtra Rent Control Act, 1999 (“Act of 1999) was not maintainable in the present case.

3. Counsel for the respondent has invited my attention to the aforesaid judgment. In the said case, the suit was filed only for

fixation of standard rent and not for recovery of rent. The Court, thereafter, dealt with Section 8, which is *pari materia* Section 11(4) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (“Act of 1947”) and referred to the judgment of the Full Bench in *Jamnadas Motilal Vanjari Vs. Ishwaribai Tejandas Alwani; [1981 Mh.L.J. 701]*, which interpreted Section 11 of the Act of 1947, wherein it was held that powers under Section 11 (a) of the Act of 1947, could not be exercised in any suit except in a suit for recovery of rent. Thus, the application may be filed in a suit for recovery of rent.

4. In the present case, the suit has been filed for recovery of rent as also for eviction and possession. That being so, the Court below was fully justified in entertaining the application under Section 8(4) (a) of the Act of 1999.

5. At this stage, counsel for the petitioner submits that such application can only be entertained in a suit simplicitor for recovery of rent.

6. I do not find any substance in the said argument inasmuch as Section 8 (4)(a) provides that where the suit is for recovery of rent, whether with or without claim for possession of premises, the Court may direct the defendant to deposit such amount of rent as it considers reasonable. Thus, where a suit is for recovery of rent, coupled with claim of possession, application under Section 8(4)(a) will still be maintainable and that is what is the issue in the present case.

6. In view of above, there appears no substance in the petition. The petition is dismissed. No order as to costs.

(Anil L. Pansare, J.)