

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2316 OF 2026

Omkar Rajkumar Burkul

... Petitioner

Versus

Prajakta Prasad Kher & Ors.

... Respondents

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Mr. Prasad Pradeep Kulkarni i/b Amol Amarnath Kanaki, Nakul Vivek
Shukla, Amol Deshinge for the Petitioner.
None for the Respondents.
.....

CORAM : SHAILESH P BRAHME, J.

DATE : 16th JUNE, 2026

P C. :

Heard learned Counsel for the petitioner.

2. The Writ Petition is directed against the order dated 10.02.2026
passed below Exh.43 in Special Civil Suit No. 758 of 2021.

3. The petitioner who is the original defendant, vide application
below Exh.43 proposed four additional issues to be framed, which are as
follows :-

“(i) Do defendant proves that, suit is barred by seeking relief of
declaration?

(ii) Do defendant proves that, suit is barred by provisions of
Maharashtra Rent Control Act?

(iii) Whether the suit is barred by Law of Limitation?

(iv) Does plaintiff No.1 has right to file suit against defendant being legal heir of deceased Prasad?”

4. The application was contested by the plaintiff. By the impugned order, the issues at Sr. Nos. (iii) and (iv) referred above are accepted to be framed. However, the first two issues are declined to be framed. The grievance of the petitioner is that the suit is not maintainable and for that purpose, issue proposed at Sr. No.(i) is relevant. It is further contended that issue No.(ii) is also relevant as the Suit is for possession and there exists relationship of landlord and tenant.

5. I have gone through the impugned order. The trial Court has framed issues on 10.02.2026. Issue No.(iv) is “*Do the plaintiffs have right to file suit against the defendant, being legal heir of deceased Prasad?*” The grievance of the petitioner that issue No.(i) needs to be framed, can be addressed while answering issue No.(iv). It would be open for the petitioner to agitate all the objections regarding maintainability of the suit for possession, which is covered by issue No. (iv). I find no merit in the submission of the learned counsel for the petitioner. The trial Court is justified in refusing to frame issue No.(i).

6. Sofar as issue No.(ii) which is proposed by the petitioner is concerned, the reasons have been assigned by the trial Court, which cannot be faulted with. I find no perversity or illegality in the reasons and a plausible view has been taken by the trial Court.

7. In view of the above, the Writ Petition stands disposed of.

(SHAILESH P. BRAHME, J.)