



RCS No. 112/2004
Satyanarayan Vs. Ramesh
CNR No. MHAK090000922004

ORDER AT EXH.81

1. This is an application of defendants filed under Order-VII Rule 11 of Code of Civil Procedure, for rejection of plaint.
2. Read application and say filed by plaintiff at Exh.84.
3. Heard Ld. Adv. for both the sides.
4.
 - i) It is submitted by the defendants that; the present suit is filed for recovery of possession and arrears of license fee, wherein defendants are described as licensee. Under provision of sec.7(5) of Maharashtra Rent Control Act, definition of licensee is given and it provides that, the occupation of the premises who is in occupation or part of the premises under subsisting agreement or license given for a license fee or charge and includes any person in such occupation of any premises or part thereof and thus relationship in between the licensee and licensor comes within a ambit of MH. Rent Control Act-1999.
 - ii) Procedure given in sec.24 of the Act provides that, the landlord entitles to recovery possession of premises given on license on expiry. Under sec.24(2) of the Act, it is provides that, if the possession of the license premises is not obtained, then the application is to be submitted to the competent authority and the said authority been satisfied that period of license has expired, shall pass an order for eviction of licensee.
 - iii) U/s 33 of the Act, it is specifically provided in sub-section 1, notwithstanding anything contend in any law for the time being in force, but subject to the provision of Chapter VIII and notwithstanding that for the reason of the amount of the claim or for any other reason, the suit or proceeding would not, but for this provision, within its jurisdiction (a)-----, (b)-----, (c) elsewhere the Court of Civil Judge Jr. Dn. having jurisdiction in the area in which the premises are situates or if there is no such civil judge, the court of Civil Judge (Sr.Dn.) having ordinary jurisdiction shall have jurisdiction to entertain and try any suit or proceeding between landlord and a tenant relating to recovery of rent or possession of any premises and to decide any application

made under this act (other than the applications which are to be decided by the State Govt. or any officer authorized by it or competent authority) and subject to the provisions of sub Sec.2, no other court shall have jurisdiction to entertain any such suit, proceeding, or application or to deal with such claim or question.

iv) Rent Courts are not established at Murtizapur and therefore, Court of Civil Judge Jr. Div. Shall be treated as Small Cause Civil Courts, who are competent to try the suit in between the landlord the tenant, licensor and licensee but as a Small Cause Civil Courts and it shall be presumed to be Rent Courts. However, the jurisdiction of the Small Cause Civil Courts Jr. Div. Is only Rs.6000/- and Sr. Div. upto Rs.12,000/- as per the provisions of Sec.28 of MH. Civil Courts Act. The notification issued by the Bombay High Court, has invested the jurisdiction in the court of Civil Judge Jr. Div. to act as a Small Cause Civil Court but the pecuniary jurisdiction could be upto Rs.6000/-. However, the plaintiff has valued the suit for court fees and jurisdiction at Rs.25,000/- which is beyond the jurisdiction of court of Civil Judge Jr. Div.

v) Under the provisions of Sec.40 of Mah. Rent Control Act, 1999, the State Govt. by notification in the official gazette appoint one or more persons to be called competent authority for the purposes of exercising the powers conferred and for performing the duties imposed on him under this act in such local area, as may be specified in the notification and one or more such competent authority may be appointed for one or more such local areas.

vi) Under Sec.41 of Mah. Rent Control Act, 1999 (c), the definition of the landlord means, landlord, who is “a person who has given premises on license for residence or successor in interest referred to in Sec.24.

vii) The provisions included under Chapter-VIII and sec.39 of the Act, specifically provides that, all provisions of the said chapter shall have overriding effect. As such when there are specific provisions given under the Act to proceed against licensee before the competent authority, Civil Judge Jr. Div. Murtizapur has no jurisdiction to entertain such suit.

viii) State of MH. has already issued notification for appointment of competent authority and for Murtizapur the powers are given to SDO to try the cases of landlord and licensee and thus, the suit is liable to be dismissed. Further in Gujarati Samaj Vs. Akola Municipal Corporation 2015(6) ABR 574, it was held that, if court comes to conclusion that the suit filed is barred by law,

question of returning plaint to be presented before another court would not arise, effect of order would be dismissal of suit for want of jurisdiction and thus, suit be dismissed.

5. i) On contrary Ld. Adv. for the plaintiff opposed the application and contended that, provisions of Rent Control Act are clear and thus, suit is maintainable and triable by this court. Evidence of the plaintiff is already given. Agreement was disputed by the defendants which is complicated question of law and can be decided on merit by on trying the suit.

ii) Sec. 33 of the Maharashtra Rent Control Act provides for the jurisdiction of court which includes this court as per Sec.33 (1) C. Sec.40, 41, 42 of Maharashtra Rent Control Act clearly provides that, as per Sec.42(B), this court is a competent authority deal with the complicated question of law and has authority to do. The plaintiff has complied with provisions of order-VI rule-14 and 15 of C.P.C. and there is no bar of jurisdiction and the application is itself not maintainable under order-VII rule-11 of CPC and deserves to be dismissed with cost. Further they submitted that, the defendants has filed the application only to prolong the case without any reason or cause. All adverse contents in the application are denied in toto and therefore, the application is to be dismissed. The contents of application are not tenable and hence denied specifically.

6. Hearing the rival submission on both the sides, following are the points for determination, along with findings and reasons thereon.

Sr. No.	POINTS	FINDINGS
1.	Is the suit barred by any law?	No.
2.	What order?	As per final order.

REASONS

ARGUMENTS

7. Ld. Adv. for the defendants argued that, plaintiff is licensor and defendants is licensee, suit is for recovery of possession and as per sec.7(5), 24(2), 33 and 39 to 42 of MH. Rent Control Act,(hereinafter refer as the 'Act'.)

there is competent authority to dispute between licensor and licensee. As per Sec.28 of Mah. Court Fees Act, the suit is valued for Rs.25,000/- and it exceeds the pecuniary of this court. This court is not having powers of Court of Small Causes. Thus, jurisdiction of this Court to entertain the suit is barred and thus, instead of returning the plaint, it may be rejected. He relied on.... **2015 SCC Online Bom.6346.**

8. Ld. Adv. for the plaintiff argued that, defendant No.2 is not his licensee and he does not fit in the definition of the tenant. Sec.24 of the Act, applies only to residential property but in case in hand, the suit property is the commercial property and hence, provision of competent authority is not applicable. Further, Sec.33 of the Act provides jurisdiction to this court, as Small Causes Court is not established in Murtizapur. Sec.39 of the Act provides overriding effect only to extent of inconsistency. In case in hand, there is no inconsistency and thus, this court has jurisdiction. Further Sec.40 of the Act, provides for competent authority only for the special purpose through the notification of the government and it does not absolve jurisdiction of this court. He also relied on... **Mangesh Ajmire Vs. Pradip Kumar Mohta W.P. No.3305/2015 of High Court of Bombay.**

AS TO POINT No.1

9. The suit is for recovery of possession and arrears of license fees and is filed under MH. Rent Control Act. The only question raised by the defendant that, the case falls within ambit of competent authority appointed under MH. Rent Control Act and this Court have no jurisdiction to try the same.

10. So far as the submission and argument of defendant as to sec.7(5) of the Act is concerned, it is the case of the plaintiff that, suit premises was given on license to the defendant No.1 only, but defendant No.1, un-authorized way inducted defendant No.2 in the same. The copy of the agreement on record also shows that, suit premises was given on license to the defendant No.1 only. But defendant No.2 is originally also made party by the plaintiff. Thus, though the defendant No.2 might be in actual possession, he does not fall within ambit of lawful meaning of licensee.

11. So far as the submission and argument of defendant as to sec.24 of the Act is concerned, provision clearly spells out the it applies to the residential premises only, However, in case in hand suit premises is not residential

premises, but commercial/shop premises and thus argument of defendant on this point holds no ground.

12. So far as the submission and argument of defendant as to sec.33 of the Act is concerned, as the suit premise is not within Brihan Mumbai, question of small cause court would not arise. Further, sec.33(c) provides that, *elsewhere, the court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the court of the Civil Judge (Senior Division) having ordinary jurisdiction, shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises and to decide any application made under this Act (other than the applications which are to be decided by the State Government or an officer authorised by it or the Competent Authority); and subject to the provisions of sub-section (2), no other court shall have jurisdiction to entertain any such suit, proceeding, or application or to deal with such claim or question.* In case in hand, there is no question, of application decided by state Govt. or by competent authority and thus argument of defendant on this point holds no ground.

13. So far as the submission and argument of defendant as to sec.28 of the MH. civil Court fees Act, is concerned, this court being a court of Jr. Div. has invested with pecuniary jurisdiction of Rs.5,00,000/- and thus argument of defendant on this point holds no ground.

14. Perused, Gujrati Samaj (supra). In this, Hon'ble High Court held that, once the court found that, the it has no jurisdiction to entertain the suit, and some another court is having the jurisdiction for the same, then plaint has to be returned to that competent court. But, in case in hand, such stage has not arrived and thus, this authority cannot anchor the defendant.

15. Perused Mangesh (Supra). In this case, the suit was also filed under provision of MH. Rent control Act and Hon'ble High Court held that, if the valuation of the civil suit is upto the limit of the jurisdiction of the CJJD, then it can entertain and decide the civil suit.

16. Hence, considering the facts, provisions and authorities (supra), it becomes clear that, this court has jurisdiction to entertain and decide the present suit and provision of Competent Authority in the Act, does not take

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away jurisdiction of this court. Hence, finding to this point is recorded in negative.

AS TO POINT No.2

17. In furtherance of finding to the point above, in answer to this point, following is the order.

ORDER

1. Application is rejected.
2. Cost in cause.

Date:- 04.09.2025.

(R. R. PAKADE)
Jt. Civil Judge, J.D., Murtizapur.

CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	S. R. Adhau
Name of the Court	Jt. Civil Judge (J.D.) & J.M.F.C., Murtizapur.
Date of Order/Judgment	04.09.2025
Order/Judgment Signed by the P.O. on	04.09.2025
Judgment/Order uploaded on	04.09.2025