

MHND160005152019



**RD No. 18/2019**

Shantabai Rampal Sarda

Vs. Kailash Shankar Joshi

**ORDER BELOW EXH. 38**

This is an application filed for refund or adjustment of excess payment made by objection petitioner/tenant.

2. The Ld. Advocate for the objection petitioner, Shri. S.U.Tikore submitted that, the objection petitioner is the tenant in the suit property and running the Hotel as Ravi Kiran and using rare portion for residence of tenant. According to him, Sadasukhdev was the original owner of the suit premises. After his death his son Rampal become owner and possessor. Rampal is having wife Shantabai and son Sunil and Raju. Shantabai alone has no right to file the suit and therefore suit as well as Regular Darkhast is hit by the misjoinder and nonjoinder of necessary parties. In the year 1993 decree holder has increased the rent from Rs.50 to Rs.100. Thereafter, decree holder has increased the rent of Rs.50 per year under the threat of eviction. In the year 2003 decree holder increased rent up to Rs.600. It is further submitted that, Kailash Shankar Joshi has filed Regular Civil Suit No. 32/2000 for perpetual injunction restraining the decree holder from dispossessing tenant and it is decreed. Thereafter, decree holder has filed

Regular Civil Suit No. 87/2007 for eviction. According to him, the provisions of Hyderabad Rent Control Act 1954 was applicable to Maharashtra Region including Nanded District within which Hadgaon is included. As per section 12 of Maharashtra Rent Control Act, the land lord cannot increase the rent unreasonably. Therefore, he calculated the rent from 01/04/2000 to 2025 and claimed rent of Rs. 1,82,100/- as excess rent amount. Therefore, he submitted to allow his application by giving direction to refund excess rent amount to the objection petitioner.

3. On the other hand, the Ld. Advocate for decree holder has filed their say at Exh.41 and submitted that, all the objection raised by the objection petitioner have been discussed and turned down by the trial court, Hon'ble Appellate Court and Hon'ble High Court. According to him, there was no relationship of landlord and tenant either with the objection petitioner or with the judgment debtor. According to him, the suit property is purchased by the decree holder in his name by registered sale deed bearing No. 21/1982 dtd 02/01/1982. Since then, she is the exclusive owner and in possession of suit property. Therefore, question of mis-joinder and non-joinder would not arise. According to him, the provisions of Maharashtra Rent Control Act are not applicable to the premises within the jurisdiction of Hadgaon Nagar Palika. Therefore, the objection petitioner has filed the false application to prolong the matter with view to extent the period of possession of premises under execution of decree.

4. He further submitted that, the decree is passed in favour of decree holder on 31/01/2015 wherein the suit of the plaintiff is governed by provisions of lease of immovable property of the Transfer of Property Act. The said issue is also confirmed by the Appellate Court in the Appeal No. 32/2015 and the same judgment is confirmed in second appeal No.252/2019 passed by Hon'ble High Court at Bombay. Therefore, he submitted that, the objection petitioner has filed this application to delay the matter and to obstruct the execution of proceeding with view to keep away the decree holder from enjoying the fruits of his decree. Hence, submitted to reject the application.

5. I have considered following points for determination and recorded my findings thereon with reasons mentioned as fallows.

| <b>Sr. No.</b> | <b>Points</b>                                                                              | <b>Findings</b>            |
|----------------|--------------------------------------------------------------------------------------------|----------------------------|
| 1.             | Whether objection petitioner is entitled to recovery of excess payment of rent as prayed ? | <b>No.</b>                 |
| 2.             | What order ?                                                                               | <b>As per final order.</b> |

### **REASONS**

#### **AS TO POINT NO.1 :-**

6. Heard both sides. Perused document produced on record. On perusal of judgment passed in Regular Civil Suit No.

87/2007 dtd. 31/01/2015 it appears that, the issue of applicability of Maharashtra Rent Control Act is discussed and decided in the negative and the parties in the present dispute are governed by provisions of lease of immovable property in the Transfer Property Act of 1882.

07. Further on perusal of judgment passed in Regular Civil Appeal No. 32/2015 dtd 13/12/2018 it appears that, the point whether the provisions of Maharashtra Rent Control Act or Hyderabad House Rent Eviction Lease Control Act 1954 would be applicable to the suit premises is decided in negative. Further it appears that, the issue of non-joinder of necessary party is also decided in the negative and tenancy of the appellant is validly terminated and thereby issue whether the the decree holder is entitled to vacant and peaceful possession of suit premises is decided in the affirmative. Further, perusal of judgment passed in second appeal No. 252/2019 decided on 26/09/2019 it appears that, the trial court and appellate court judgments have been affirmed and confirmed by the Hon'ble High Court.

08. Considering above all the documents on record as well as observations/ decisions made in the above three judgments it appears that, the issue of misjoinder and non-joinder as well as applicability of Hyderabad Rent Control Act and Maharashtra Rent Control Act to the premises have been finally settled by the Hon'ble High Court and therefore the objection raised by petitioner that he was tenant and excess

rent have been charged by the decree holder is not acceptable on the back drop of non-applicability of Maharashtra Rent Control Act or Hyderabad Rent Control Act to the suit premises.

09. Considering above discussion, it appears that, the objection petitioner has filed the application to prolong the matter and to obstruct the process of recovery of possession of the suit premises by the decree holder. Therefore, the application is devoid of merits and it deserves to be rejected. Hence, I answer point No. 1 in the negative and in answer to point No.2, I pass the following order.

**ORDER**

- 1) Application at Exh. 38 is rejected.
- 2) Cost shall in main cause.

(Dictated and pronounced in the open court)

Place :- Hadgaon  
Date :- 19.06.2026

(Amarjeet B. Jadhav)  
Civil Judge, Junior Division,  
**Hadgaon**

**CERTIFICATE**

I affirm that the contents of this PD.F file order/judgment are same word for word as per original order.

Name of steno : Anita S.Godam

Name of court : C.J.J.D.& J.M.F.C., Hadgaon,

Order Date : 19.06.2026

Judgment/order signed  
by Presiding Officer on: 19.06.2026

Judgment/order  
uploaded on : 19.06.2026

