





**WITH  
CIVIL REVISION APPLICATION NO. 134 OF 2019**

<p>Dhule Krishi Utpanna Bazar Samiti, Dhule, [Agriculture Produce Market Committee] Through its Secretary Shri Dinkar Barku Patil Age : Major, Occupation : Service Resident of : C/o APMC Dhule, Market Yard, Parola Road, Dhule, District Dhule</p>	<p>                       </p>	<p>Applicant [Ori. Plaintiff/ Appellant]</p>
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**VERSUS**

<p>Jai Hanuman Trader Through Proprietor Shri Narayan Basantilal Agrawal Age : 65 years, Occupation : Business Resident of : Near Gandhi Putala, Dhule, District Dhule</p>	<p>                   </p>	<p>Respondent [Oig. Defendant/ Respondent]</p>
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Mr. Mukul S, Kulkarni, Advocate for the Applicant in All CRAs.  
Mr. V. C. Solshe, Advocate for the Respondent in CRA/129/2019.  
Mr. M. H. Patil, Advocate for the Respondents in CRA/130/2019,  
CRA/131/2019 and CRA/132/2019.  
Mr. Sumit Agrawal, Advocate for the Respondent in  
CRA/134/2019.

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**CORAM : V. K. JADHAV, J.  
RESERVED ON : 03.03.2020  
PRONOUNCED ON : 13.05.2020**

**ORDER :-**

1. Though all these Civil Revision Applications were heard extensively and the written notes of arguments have been submitted by both the parties, however, in the facts of the case, learned

counsel appearing for both sides have not made any submissions in respect of the issue referred for consideration of the Full Bench and decided accordingly in the case *Babulal v. Suresh and Others*, reported in **2017 (4) Mh.L.J. 406**. The issue referred for consideration of the Full Bench is recorded below :

“If the tenant complies the notice issued by the landlord demanding arrears of rent and pays the entire amount as demanded within the time stipulated under section 15(2) of the Maharashtra Rent Control Act, then whether the landlord can still file a suit for eviction on the ground of arrears of rent and whether the eviction can be ordered by invoking provisions of section 15(3) of the Maharashtra Rent Control Act ?”

2. In paragraph nos. 17 and 20 the Full Bench has made the following observations and further in paragraph 25 answered the reference as below :

*“17. On consideration of provisions of section 15 of the Maharashtra Rent Control Act which provide for relief against forfeiture to the tenant, it is clear that the tenant has been extended protection from eviction so long as he performs his obligation in respect of payment of rent as well as observance and performance of other conditions of*

*the tenancy. The provisions, thus, protect the tenant who is paying rent or has established his readiness and willingness to pay. Further protection is also provided in sub-section (3) of section 15 if the tenant pays entire arrears of rent on receipt of notice within contemplation of sub-section (2) of section 15 before the period prescribed under sub-section (2) together with interest and cost as may be ordered by the Court and continues to pay rent and the permitted increases regularly until the decision in the suit. If the tenant does not pay rent regularly and offers to pay only after issuance of notice within contemplation of sub-section (2) of section 15 and does not observe the other terms and conditions which include regular payment of rent, the landlord is not disabled from proceeding against such tenant. In nutshell, to derive that if tenant offers or pays the amount recorded in the notice issued in pursuance to sub-section (2) of section 15, together with permitted increases, the landlord is disabled from proceeding against the tenant is not within contemplation of section 15 of the Act. The right to seek remedy and claim possession of the premises owned by the landlord is inherent in him however, initiation of such proceedings is subject to fulfilment of certain pre-conditions such as issuance of notice in accordance with section 106 of the Transfer of Property Act as provided under section 15(2). It is, thus, clear that the tenant who disobeys the provisions of section 15(1) can be evicted independently though such tenant may not necessarily pay any arrears of rent on the date of institution of the suit. Sub-section (3) of section 15 shall have to be construed independently and if the tenant does not observe the mandate of sub-section (3) in respect of payment of amount of rent and permitted increases regularly till*

*disposal of the proceedings before the Court, is also liable to be evicted.”*

18. ....

19. ....

20. *On the analysis of the provisions of section 15 as well as various judgments, it must be concluded that the provisions of sub-sections (1), (2) and (3) of section 15 shall be read independently. In order to claim relief against forfeiture, the tenant must satisfy all the conditions in respect of payment of rent or tender in Court all the arrears then due on the first day of hearing of the suit or within contemplation of provisions of law and to deposit the rental liability regularly in the Court till the suit is finally decided and there is no extinction of the cause of action by reason of payment of existing arrears by the tenant. It is, thus, clear that in order to avoid decree, once the notice is issued within contemplation of sub-section (2) of section 15 of the Maharashtra Rent Control Act by the landlord, the tenant shall have to fulfil the conditions laid down under sub-section (3) of section 15 of the Maharashtra Rent Control Act and there is no escape therefrom.*

21. ....

22. ....

23. ....

24. ....

25. *To infer that once the tenant pays the amount recorded in the notice or tenders the same, the landlord*

*has no right to institute a suit for recovery of possession for non-payment of those arrears or continue with such proceeding for eviction and no decree for possession can be asked for, is not within contemplation of provisions of section 15 of the Act. The provision does not interfere with the right of the landlord to initiate proceeding for eviction, however, sub-section (2) of section 15 prescribes precondition for presentation of suit, that is to say that no suit can be initiated without issuing a notice within contemplation of said sub-section (2) of section 15 and tenant's entitlement to claim relief against forfeiture shall be subject to fulfillment of conditions stipulated under sub-section (1) and (3) of section 15 of the Rent Act”.*

3. In all these Civil Revision Applications the applicant Dhule Krishi Utpanna Bazar Samiti, Dhule has instituted suits for eviction of the respondents on the ground of arrears of rent and bonafide requirement. It also appears from the facts of each and every case that five godowns are given on rent to the respective respondents who are running their shops in those godowns. In all the cases, Dhule Krishi Utpanna Bazar Samiti, Dhule has instituted suits for eviction on 30.03.2009. In all the cases, the respondents have contested the suits by filing written statements. The trial court, by judgment and decree, decided the suits in the following manner:

Sr. No.	Suit Number	Date of Decree
1	<b>RCS No.78/2009</b> (CRA 129/2019) Agriculture Produce Market Committee, Dhule versus Nandu Bhalerao Patil	Suit decreed on 23.06.2015
2	<b>RCS No.81/2009</b> (CRA 130/2019) Agriculture Produce Market Committee, Dhule versus Khandesh Trading Company, Dhule	Suit decreed on 23.06.2015
3	<b>RCS No.82/2009</b> (CRA 131/2019) Agriculture Produce Market Committee, Dhule versus Bharat Trading Company, Dhule	Suit decreed on 13.04.2016
4	<b>RCS No.79/2009</b> (CRA 132/2019) Agriculture Produce Market Committee, Dhule versus M/s. Vijaykumar Madhavji Company, Dhule	Suit decreed on 13.04.2016
5	<b>RCS No.80/2009</b> (CRA 134/2019) Dhule Krishi Utpanna Bazar Samiti, Dhule versus Jai Hanuman Trades, Dhule	Suit dismissed on 29.08.2011

The Appellate Court however reversed the decree wherein the appellate court has decreed the suit which can be seen from the following chart:

Sr. No.	Particulars	Name of Parties	Decision & Date
1	<b>Appeal No.97/2015</b> from RCS/78/2009	Nandu Bhalerao Patil versus Dhule Krishi Utpanna Bazar Samiti	Appeal allowed on 10.04.2019
2	<b>Appeal No.96/2015</b> from RCS/81/2009	Nandu Bhalerao Patil versus Dhule Krishi Utpanna Bazar Samiti	Appeal allowed on 10.04.2019

3	<b>Appeal No.82/2016</b> from RCS/82/2009	Bharat Trading Company versus Agricultural Produce Market Company Dhule	Appeal allowed on 10.04.2019
4	<b>Appeal No.83/2016</b> from RCS/79/2009	M/s. Vijaykumar Madhavji Company versus Agricultural Produce Market Committee, Dhule	Appeal allowed on 10.04.2019
5	<b>Appeal No.102/2011</b> from RCS/80/2009	Dhule Krishi Utpanna Bazar Samiti versus Jai Hanuman Traders	Appeal dismissed on 10.04.2019

4. I have gone through the entire record and proceedings, however, I do not find that the respondents in all these eviction suits, either during pendency of suits or during pendency of the appeal, complied with the provisions of Section 15(3) of the Maharashtra Rent Control Act, 1999. Even the trial court has made a passing reference of the same. It is thus part of record that the respondents/tenants failed to pay or tender in court regularly the rent till the suits are finally decided and even during the course of pendency of appeals and till its disposal. In terms of the reference answered by the Full Bench, in order to avoid decree, once the notice is issued within contemplation of Sub-section (2) of Section 15 of the Maharashtra Rent Control Act by the landlord, the tenant shall have to fulfill the conditions laid down under Sub-section (3) of Section 15 of the Maharashtra Rent Control Act and there is no escape therefrom.

5. In my opinion, it is therefore necessary to hear the parties on this point in terms of the reference answered by the Full Bench in the case of *Babulal* (supra) so also their submissions in respect of non-compliance of the later part of Sub-section (3) of Section 15 of the Maharashtra Rent Control Act which contemplates payment of rent continuously till the suit is finally decided, as per the directions of the court.

6. In view of the above, all these Civil Revision Applications are de-part heard. The same shall be listed for re-hearing.

( V. K. JADHAV, J.)

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