

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH : NAGPUR.**

**SECOND APPEAL NO.147 OF 2020**

Sunil Shankarji Mahule Vs. Vishnukumar Kishorilal Sharma

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

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Shri Bhushan Dafle, Advocate for Appellant.

**CORAM :- A. S. CHANDURKAR, J.**

**DATED :- 28.08.2020**

**Second Appeal No.147/2020**

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and video quality was proper.

The respondent – plaintiff filed suit for possession on the basis of registered Sale-Deed dated 22.02.2002. The defendant raised his plea that he was a tenant of the suit premises. The Trial Court while answering issue No.7-A held that the suit was not governed by the provisions of the Maharashtra Rent Control Act, 1999. The suit came to be decreed. The Appellate Court, however, reversed the findings recorded by the Trial Court and held that the suit was governed by the Maharashtra Rent Control Act, 1999. It further proceeded to hold that the plaintiff was entitled to a decree for possession under Section 16(1)(b) of the said Act.

The substantial question of law that arises for consideration is “*whether the Appellate Court after*

*recording a finding that the provisions of the Maharashtra Rent Control Act, 1999 were applicable to the suit premises was justified in passing a decree for eviction or whether the proceeding ought to have been remanded to the Trial Court for being tried as a suit for eviction under the said Act ?”*

Issue notice to the respondents, returnable in four weeks.

**CIVIL APPLICATION (CAS) No.430/2020**

Issue notice to the respondents, returnable in four weeks.

The possession of the applicant shall remain protected until further orders.

The order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

**JUDGE**

*RGurnule.*