

**(2012) 04 BOM CK 0159**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 5228 of 2011**

|                                               |            |
|-----------------------------------------------|------------|
| Nirmal Ujwal Credit Co-Operative Society Ltd. | APPELLANT  |
| Vs                                            |            |
| Narendra Mohanlal Choudhary                   | RESPONDENT |

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**Date of Decision :** 27-04-2012

**Acts Referred:**

Maharashtra Rent Control Act, 1999 — Section 34(1), 34(4)

**Citation :** (2012) 04 BOM CK 0159

**Hon'ble Judges :** A.B. Chaudhari, J

**Bench :** Single Bench

**Advocate :** S.V. Bhutada, for the Appellant; V.V. Bhangde Advocate for Respondent no.1.and Mrs. Taiwade, AGP, for Respondent no.2., for the Respondent

**Final Decision :** Dismissed

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## Judgement

A.B. Chaudhari, J.—Rule. Rule heard forthwith by consent of learned counsel for the rival parties. The question of law that has been raised in the instant matter is as follows :

Whether revision application u/s 34 (4) of The Maharashtra Rent Control Act, 1999 would lie against an order directing or rejecting an application for restoration of essential supply, e.g. electric supply, as contemplated by Section 34 (1) (d) of the Act?

2. Arguing that no revision would lie, Mr.Bhutada, learned counsel for the petitioner, contended that the word used in sub-clause (d) is an "application". But under sub-section (4) revision lies only against any decree and order in any `suit" or proceeding .According to him, the word `application" cannot be equated with the word `suit" or `proceeding" and, therefore, under sub-section (4), no revision would lie to the District Court.

3. Per contra, Mr.Bhangde, learned counsel for respondent no.1, invited my attention to the meaning of the word `proceeding" as defined in Black"s Law

Dictionary and argued that the meaning of the word "proceeding" is wide enough to include an "application" which is nothing but a proceeding.

4. I have gone through the impugned order under revision and the objection that was raised about tenability of revision. It is true that sub-section (4) of Section 34 provides for a remedy of revision when no appeal lies. It is also true that sub-section (4) makes the use of the word in any suit or proceeding but does not use the word application. Looking to the scheme of Act, 1999, it clearly appears that wherever appeals are provided, a remedy has been provided to the aggrieved party. However, where appeal is not provided; the Legislature wanted to provide a remedy of revision and that is done by way of sub-section (4) of Section 34. The Act is a self-contained Code providing for various remedies to the tenants as well as to the landlords and, therefore, any interpretation which would make the said intention of Legislature nugatory should not be adopted by a Court. In the present case, it is seen that though the word application is absent in sub-section (4), it cannot be said that the remedy of revision against an order on application under sub-clause (d) should be taken away. If such interpretation is adopted, the very purpose of providing remedies under the Act, which is self contained Code would lie in futility. The Court would prefer that which advances the remedy, ubi jus ibi remedium. The Court should always lean to interpret the provision for making the effective remedy available to a litigant or aggrieved party rather than denying it. That apart, the word proceeding used in sub-section (4) will have to be construed in its literal meaning. The word "proceeding" in Black's Law Dictionary has been defined as under :

"Proceeding" is a word much used to express the business done in courts. A proceeding in court is an act done by the authority or direction of the court, express or implied. It is more comprehensive than the word "action", but it may include in its general sense all the steps taken or measures adopted in the prosecution or defense of an action, including the pleadings and judgment. As applied to actions, the term "proceeding" may include - (1) the institution of the action; (2) the appearance of the defendant; (3) all ancillary or provisional steps, such as arrest, attachment of property, garnishment, injunction, writ of ne exeat; (4) the pleadings; (5) the taking of testimony before trial; (6) all motions made in the action; (7) the trial; (8) the judgment; (9) the execution; (10) proceedings supplementary to execution, in code practice; (11) the taking of the appeal or writ of error; (12) the remittitur, or sending back of the record to the lower court from the appellate or reviewing court; (13) the enforcement of the judgment, or a new trial, as may be directed by the court of last resort.

Looking to the above meaning of the word "proceeding" and the intention of the Legislature, I am inclined to hold that even an order on an application accepting or rejecting the same for directions to restore essential supply would be a proceeding within the meaning of sub-section (4) of Section 34 and consequently remedy of revision would be available to the aggrieved party. The above question is thus answered in the affirmative. Hence, I make following order.

ORDER

- (i) Writ petition No. 5228/11 is dismissed.
- (ii) There shall be no order as to costs.