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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 79 OF 2026

VAISHALI
ANIL
TIKAM

Anthony Maurice Lopes

...Applicant/s

Versus

The State of Maharashtra and Anr.

...Respondent/s

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by VAISHALI
ANIL TIKAM

Date:
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Mr. Chandraprakash Tripathi Advocate for Applicant.

Mr. B.B. Kulkarni, APP for Respondent-State.

Mr. Raghav Dharmadhikari a/w. Leena Shah a/w Rahil Karia, Advocates
for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th AUGUST, 2026.

P.C. :

1. Heard learned counsel for the Applicant, learned APP and
learned counsel for Respondent No.2.

2. The challenge in this revision application is to the impugned
judgment and order passed by the Learned Additional Sessions Judge,
Mumbai whereby the Learned Judge dismissed the Criminal Appeal
preferred by the Applicant and confirmed the judgment and order of
conviction passed by the Learned Additional Chief Judicial Magistrate, 5th
Court, Dadar (at Sewree), Mumbai in C.C. No. 687/SS/2009. By the said
order, the Applicant has been convicted for the offence punishable under
Section 630(1)(b) of the Companies Act, 1956 and has been directed to
hand over vacant possession of Room No. 5, 2nd floor, NSE Building,

Tikam

Koliwada,, Worli, Mumbai (*hereinafter*, “suit premises”) to the authorised representative of Respondent No.2-Company.

3. It is prosecution's case that father of the Applicant was working as “Driller” in Respondent No.2-Company, and during course of employment, the suit premises was allotted to him as residential accommodation. He retired from service on 28th February, 1979. However, even after his retirement, he did not vacate the suit premises. Accordingly, a notice was issued to him, calling upon him to vacate the suit premises. As he failed to do so, the complaint was filed under Section 630 of the Companies Act, 1956 and accordingly, impugned order came to be passed.

4. It is contention of learned counsel for Applicant that Applicant is occupying the suit premises in the capacity as a tenant of Respondent No.2-Company and not as a person wrongfully withholding the property of the Company. The suit was filed in year 1980 by Respondent No.2-Company in the Small Causes Court against the father of Applicant for recovery of possession of the suit premises on the ground that father of the applicant was a licensee of the suit premises and was liable to hand over the possession of the said suit premises to the respondent no.2. The said suit was dismissed. The said fact was suppressed by Respondent No.2. Learned counsel further submitted that earlier complaint was filed before the Learned Magistrate. Thereafter, second complaint was filed, which is

Tikam

not tenable. However, this fact has not been considered by the Learned Courts below and requested to allow the Revision Application.

5. It is contention of learned counsel for Respondent No.2 that the suit was dismissed for non-prosecution. It is submitted that the earlier complaint was dismissed for want of prosecution and was not decided on merits. The father of the Applicant was an employee of Respondent No.2-Company, and the suit premises was allotted to him as an employee quarter. He was required to vacate the premises after his superannuation. However, he pro-longed vacating the suit premises and even after his death, the Applicant continued to remain in possession. Learned counsel further submitted that the offence under Section 630 of the Companies Act, 1956 is a continuing offence and that a legal heir of the deceased employee can be prosecuted where the property of the Company continues to be wrongfully withheld. The Courts below have passed well-reasoned order. Hence, no interference is required in it and requested to reject the application.

6. Learned APP adopted the submissions of learned counsel for respondent no.2 and submitted that the Courts below have passed well-reasoned order, no interference is required in it and requested to reject the application.

7. I have heard both learned counsel. Perused the impugned

Tikam

judgment and order and documents produced on record. Admittedly the suit premises was given to father of the Applicant in the capacity as employee of Respondent No.2. After superannuation, he did not vacate the suit premises. Therefore, notice was given. The earlier civil proceeding filed in year 1980 was dismissed for non-prosecution. The complaint filed before the learned Magistrate was also dismissed for want of prosecution.

8. It is contention of learned counsel for the applicant that the applicant is occupying the suit premises in the capacity as a tenant of Respondent No.2-Company. I do not find merit in this contention as record shows that while allotment of the suit premises, the father of the Applicant had executed Agreement dated 30th September, 1959 with Respondent No.2-Company. The said Agreement was executed under the terms and conditions governing allotment of the suit premises constructed by the Company for its employees. Thus, the documents produced on record, including the Agreement dated 30th September, 1959, show that the premises was allotted to the father of the Applicant as an employee of Respondent No.2-Company.

9. Further, the Applicant, in his cross-examination dated 06/03/2025, has stated that he has no documentary evidence to show that there exists relationship of landlord and tenant between his father and

Tikam

Respondent No.2-Company. He has also stated that he has no documentary evidence to show that there exists relationship of landlord and tenant between himself and Respondent No.2-Company. He has further stated that Respondent No.2-Company had not executed any Leave and Licence Agreement either in his favour or in favour of his father. Moreover, the receipt produced on record shows that the amount paid by the Applicant was not in the nature of rent, but was towards compensation for use and occupation of the suit premises.

10. The father of the Applicant, after his superannuation, was required to vacate the premises. However, he failed to do so. After his death, the Applicant continued to remain in possession of the premises. The Applicant was admittedly not an employee of Respondent No.2-Company. Therefore, in the absence of any document showing tenancy in favour of the Applicant, his continued possession of the premises cannot be said to be in the capacity as a tenant.

11. It is contention of learned counsel for the applicant that provisions of Companies Act would not be applicable to the applicant. In my view, Section 630 of the Companies Act, 1956 can be invoked where the property of the Company is wrongfully withheld. In the present case, the suit premises was allotted to the father of the Applicant as employee accommodation. After his superannuation, the premises was required to be

Tikam

vacated. The same was not vacated and even after his death, the Applicant continued to remain in possession. Therefore, the finding recorded by the Courts below regarding wrongful withholding of the premises cannot be said to be perverse or contrary to the material on record.

12. As regards the contention regarding maintainability of the subsequent complaint, the earlier complaint was dismissed for want of prosecution and was not decided on merits. Therefore, the said dismissal would not preclude Respondent No.2 from filing a subsequent complaint when the alleged wrongful withholding of the premises continued. The learned Sessions Judge has also considered the said aspect and has recorded reasons for holding the subsequent complaint to be maintainable.

13. Considering the facts and circumstances of the case, no interference is called for in exercise of revisional jurisdiction. Hence, I do not find any infirmity in the impugned order passed by the learned Sessions Judge and I pass following order:

ORDER

- (i) Criminal Revision Application is rejected.

(SHIVKUMAR DIGE, J.)