

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.29288 OF 2015

Mrs. Mamta Atul Shah

.. Petitioner

Versus

Neha Rajesh Gokhale and others

.. Respondents

Mr. Vishwanath Patil i/by Mr. M. M. Khan, for the Petitioner.

Ms. Prabha Badadare, for the Respondent Nos.1 & 2.

CORAM : R.M. SAVANT, J.

DATE : 18th DECEMBER, 2015

PC.

1. Not on board. Mentioned for urgent reliefs.

2. Heard the Learned Counsel for the parties. The Writ Jurisdiction of this Court is invoked against the order dated 16.09.2015 passed by the Additional Commissioner, Konkan Division, by which order the Revision Application No.366 of 2015 came to be dismissed and resultantly, the order dated 10.07.2015 passed by the Competent Authority, Konkan Division in the application filed under Section 24 of the Maharashtra Rent Control Act, 1999, by the Respondents herein came to be confirmed. The Petitioner herein is the licensee whereas the Respondents are the licensors in respect of the premises in question. A Leave and Licence agreement was entered into between the parties on

12.04.2013 under which the licence was to commence on 01.05.2013 and was to end on 30.04.2014. It appears that during the currency of the licence the terms and conditions of the same were breached in the matter of payment of the licence fees to the licensor. On the licensor issuing a notice to the licensee to vacate the licensed premises and on refusal of the licensee to vacate the premises filed application under Section 24 of the Maharashtra Rent Control Act. The licensee filed application for leave to defend, which leave was rejected by the Competent Authority by order dated 09.07.2015. The Competent Authority thereafter in view of the fact that the licence period has admittedly come to an end by order dated 10.07.2015 allowed the application and directed the eviction of the licensee. The submission urged on behalf of the licensee that the father of the licensor had agreed to sell the premises in question and an MOU has been entered into between the parties was not countenanced by the Competent Authority for the reasons mentioned in its order.

3. The licensee aggrieved by the order dated 10.07.2015 carried the matter by way of a Revision before the Additional Commissioner, Konkan Division. The Additional Commissioner in view of the admitted facts namely that licence period had come to an end did not find any reason to interfere with the order passed by the Competent Authority directing the eviction of the licensee and accordingly rejected the Revision

by the impugned order. The Learned Counsel appearing on behalf of the Petitioner i.e. licensee Mr. Vishwanath Patil would seek to contend that the licensee has already filed a suit for specific performance of the alleged MOU entered into between the licensee and the father of the present licensors and therefore, the licensee should be permitted to continue to be in possession of the premises on the application of Section 53 of the Transfer of Property Act. This was the principal contention on which the orders passed by the Competent Authority as well as the Additional Commissioner were sought to be questioned. In my view, it is not possible to accept the said contention urged on behalf of the Petitioner. If the Petitioner has filed any proceedings seeking specific performance of the alleged agreement of sale of the suit premises, it is for the Petitioner to seek appropriate reliefs in the said proceedings and the order passed by the Competent Authority and confirmed by the Additional Commissioner cannot be negated on the ground that a suit has been filed by the Petitioner for specific performance. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]