

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

WRIT PETITION NO.9708 OF 2013

Jahangir Akram Utkur : Petitioner.
Versus
Mohiyoddin Nabisab Jamkhandi : Respondent.

Mr. T M Sagavi i/by Mr. N P Dalvi for the Petitioner.
None for the Respondent.

CORAM : R. M. SAVANT, J.
DATE : 08th February 2016

P.C.

1 The order dated 09/07/2013 passed by the Competent Authority, Pune under Section 43 of the Maharashtra Rent Control Act rejecting the Application filed by the Petitioner herein for permitting him to file his reply to the Application No.7 of 2013 filed by the Respondent for possession is taken exception to by way of the above Petition. The Respondent has filed proceedings before the Competent Authority for seeking possession against the Petitioner under Section 24 of the Maharashtra Rent Control Act as the Petitioner was a licensee in respect of the premises in question.

2 The said Application has been rejected on the ground that the same has not been filed within 30 days of the date of receipt of summons. The summons it seems were received by the Petitioner on 23/04/2013 and the application in question was filed on 09/07/2013.

3 In my view, though the application has been rejected on the ground of it having been filed after more than 30 days of the receipt of the summons, the said application as filed is thoroughly misconceived as what the Petitioner was required to do was to file an application for leave to defend under Section 43(4)(a) of the Maharashtra Rent Control Act and it is only upon the leave being granted that a reply to the application could have been filed. Accepting the said reply without their being any leave granted to the petitioner to defend would be against the provisions of Section 43 of the Maharashtra Rent Control Act. In my view, therefore the impugned order can be sustained on the said ground. Hence no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]