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

WRIT PETITION (ST.) NO. 32604 OF 2016

Mr. Niyaz Ahmed s/o. Munir Ahmed
Since deceased through wd. Nusrat Niyaz Ahmed. ... Petitioner.

V/s.

Mr. Arif Amir Shaikh. ... Respondent.

Mr. Khalid Naseem Khan for the Petitioner.
Mr. Lokesh Zade for Respondent No.1.

CORAM : N.M. Jamdar, J.

01 December, 2016.

Oral Order :-

Not on board. Taken on production board by way of praecipe.

2. By this Petition the Petitioner has challenged the concurrent orders passed by the Competent Authority and the Additional Commissioner, Konkan Division, Mumbai whereby the application taken out by the Respondent – licensor has been allowed and the Revision Application filed by the Petitioner has been rejected.

3. Heard the learned Counsel for the parties. Before both the Authorities a clear stand has been taken by the Petitioner that the Petitioner has purchased the suit property. The learned Counsel for the Petitioner has reiterated the said argument. An agreement for sale dated 4 August 1997 is sought to be relied upon. This agreement is not a title deed and therefore, the case of the Petitioner that she had purchased a property from the Respondent – licensor and become owner thereof cannot be accepted and has been rightly rejected.

4. The second contention of the learned Counsel for the Petitioner is that the leave and licence agreement has not been registered. The Competent Authority has considered the factual situation as to in what circumstances the agreement was executed. Furthermore, the learned Counsel for the Respondent has placed reliance on the order passed by the learned Single Judge of this Court R.M. Savant, J. in Writ Petition No. 1786 of 2016 wherein identical argument based on non-registration of the agreement and that Application below Section 24 being not maintainable, was advanced and was specifically rejected, by following the decision given by another learned Single Judge of this Court in the case of *Raj Prasanna Kondur v/s. Arif Taher Khan & Ors.* 2005(4) Bom. C.R. 383.

4. In these circumstances, keeping the scope of the proceedings and the nature of the power of superintendence, since the Petitioner had utterly failed to demonstrate clear title of the property, no fault can be found with the concurrent orders passed by the authorities. As far as granting time to vacate to the Petitioner is concerned, the learned Counsel for the Respondent shall not averse but has stated that to grant of time to vacate, the Petitioner must clear the arrears of licence fees which according to him are to the tune of Rs. 2,80,000/-. This insistence is justified. The learned Counsel for the Petitioner on instructions submitted that the Petitioner will not able to pay the amount. Therefore, there is no question to grant of any time to vacate.

5. In the circumstances, no further indulgence granted to the Petitioner. The Writ Petition is accordingly rejected.

(N.M. Jamdar, J.)