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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14413 OF 2016

Godhwani Brothers Pvt. Ltd.

..Petitioner.

V/s.

Shyam Rochiram Godhwani & Ors.

..Respondents.

Mr.Mayur Khandeparkar with M.Bagla i/b. Kanga & Co. for the
Petitioner.

Mr.Madhusoodhanan Nair with Shara Agre i/b. KPMC Legal for
Respondent No.1.

Ms.Khyati Pandit i/b. Dhru & Co. for Respondent No.2.

Mr.Ajay Panicker i/b. Ajay Law Association for Respondent Nos.5A
& 5B.

CORAM : N.M.Jamdar, J.

DATED : 12 January, 2017

P.C. :-

The Petitioner has challenged the orders passed by the
Competent Authority established under the Act of 1999 whereby
the application of the Petitioner for impleadment in the proceedings
instituted by Respondent-Applicant No.1 against Applicant Nos.2, 4
and 5 had been rejected.

2. An application under section 24 of the Maharashtra Rent

Control Act, 1999 has been filed by Respondent No.1 claiming that he is 50% owner of the suit premises which have been given on leave and licence basis to Respondent No.2 and other Respondents in the application filed, have 25% share each therein. Accordingly possession is sought from Respondent No.2 of the suit premises to Respondent No.1 and other co-owners. In this application, an application for impleadment was made by the Petitioner, based on a Award rendered by the learned Arbitrator, claiming that the Petitioner has half share in the suit property, which has been rejected.

3. Considering the nature of summary proceedings under section 24 of the Maharashtra Rent Control Act, 1999, such complicated questions of title cannot be gone into by the Competent Authority which essentially is established for speedy recovery of possession of the licensed premises to the licensor. The main concern expressed by the learned counsel for the Petitioner is that because Respondent No.1 is not refunding the deposit kept by Respondent No.2, the proceedings by which Respondent No.2 will hand over the possession, will get unduly prolonged. The learned counsel submitted that though it is correct that the Petitioner can agitate the *inter se* rights between the parties in substantive proceedings and if possession is received by Respondent No.1 and other co-owner due to the conduct of Respondent No.1 in not refunding the security deposit, the premises will needlessly continue in possession of Respondent No.2 and, therefore, the impleadment

of the Petitioner in those proceedings is necessary.

4. The learned counsel for Respondent No.1 on instructions submitted that the allegations that Respondent No.1 do not intend to return the security deposit is entirely unfounded as Respondent No.1 was and is always ready and willing to refund the security deposit and in fact the Petitioner is creating impediments in the way. The learned counsel for Respondent No.2, the licensee also states that they are willing to hand over possession. However, there are certain issues regarding the interest which aspect, no doubt, will have to be considered by the Competent Authority. In view of these statements and the above clarification which adequately protects the interest of all the parties, no further order is required to be passed in this writ petition. In any case if any direction is issued by any authority for refund of the security deposit, it goes without saying that Respondent No.1 in law will have to abide by the said directions.

5. Be that as it may, if a stand is taken by Respondent No.1 that the security deposit will be refunded to Respondent No.2 to facilitate recovery of possession, then the apprehension expressed by the Petitioner does not survive. The statement made by the learned counsel for Respondent No.1 is accepted. It is always open to the Petitioner to institute a substantive proceedings for claiming share and possession pursuant to the application in the suit property after possession is so obtained by Respondent No.1. Needless to state that such proceedings will be decided on their own merits. Therefore, the

possession received by Respondent No.1 along with other co-owners, as claimed in the application will be subject to the substantive proceedings that the Petitioner proposes to institute. The writ petition is accordingly disposed of.⁶

(N.M.Jamdar, J.)