

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO. 14124 OF 2017

Mr. Vinod Shankar Soni ...Petitioner

Versus

Mr. Arvind Chabildas Panchal ...Respondent

Mr. Sameer Tendulkar a/w. Mr. Suraj Gupte for the Petitioner.
Mr. Sajid Qureshi for the Respondent.

CORAM: G.S. KULKARNI, J.
DATED: 21st December, 2017

PC:-

1. Heard learned counsel for the petitioner. The challenge in this petition is to the order passed by the Competent Authority Konkan Division, Mumbai, whereby the application under Section 24 of the respondent seeking possession of the licenced premises bearing Room No. 60, Pardiwala Chawl, Sun Mill Road, S.J. Marg, Lower Parel, Mumbai 400 013, stands allowed.

2. It is not the dispute that, the petitioner was in occupation of the suit premises by virtue of a Leave and License Agreement dated 01st July, 1996 which was initially granted for a period of 11

months. However, the original licensor i.e. the respondent's brother Mr. Chandrakant Panchal expired on 08.08.2004. The license had continued to operate and the petitioner was paying the license fee as agreed between the parties which was Rs. 200 per month. The respondent had called upon the petitioner to vacate the suit premises by terminating the license. Initially, the respondent approached the Small Causes Court by filing L.E. and C. Suit No. 163/201 of 2011.

3. The petitioner defended the said suit as also evidence was recorded. Considering the defence as taken by the petitioner, the Small Causes Court recorded a finding that the suit was filed for possession and recovery of arrears of license fee/compensation in respect of the suit premises and it was also recorded that the petitioner has not disputed that he is in occupation of the premises under a license. The Small Causes Court thus held that the Court would not have jurisdiction to try the suit, in as much as the dispute between the parties was of a licensor and licensee and therefore fell within the jurisdiction of Competent Authority under Section 24 of Maharashtra Rent Control Act, 1999. This order which holds that the competent authority has jurisdiction under

Section 24 is not challenged by the petitioner and therefore it is required to be taken that the petitioner accepted the jurisdiction of the competent authority to undertake adjudication of the respondent's application for recovery of possession.

4. It is pertinent to observe that no other independent proceedings were adopted by the petitioner to assert any other rights or the rights as tenant in respect of the suit premises. Nothing precluded the petitioner from instituting an independent proceedings against the respondent and assert the rights of tenancy by seeking appropriate protection under the provisions of Maharashtra Rent Control Act, 1999.

5. The competent authority also considering the clear relationship between the respondent and the petitioner of a licensor and licensee, in my opinion has rightly rejected the defence as urged on behalf of the petitioner. Considering the documents as placed on record, I do not find that there is any case for interference as made out in the present writ petition.

6. Learned counsel for the petitioner submits that the impugned order has already been executed and the possession of

the premises has already been taken by the respondent.

7. In view of the above observations, the petition does not call for interference. It is accordingly rejected. No costs.

(G.S. Kulkarni, J.)