

psv

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

**CIVIL APPLICATION NO.2907 OF 2017  
IN  
WRIT PETITION NO.8370 OF 2017**

Shakuntala Suresh Shetty ..Petitioner/Appellant  
Vs.  
Mrs.Sneha Raghu Shetty & Anr. ..Respondents

-----

Ms.Anjani Kumar Singh with Mr.Prakash Hegade, Mr.D.S. Mishra  
i/b. M/s.DS Law Bureau for Petitioner.  
Mr.Vijay S. Thakur Singh for Respondent No.1.  
Ms.Sandhya A. Mailagir i/b. Mr.Harish Lulia for proposed  
Respondent No.2.

-----

**CORAM : G.S. KULKARNI, J.**

**DATE : 18<sup>th</sup> DECEMBER, 2017**

**P.C.:**

Heard learned Counsel for the parties.

2. Challenge in the present Writ Petition is to the order dated 30<sup>th</sup> January 2017 passed by the Additional Commissioner, Konkan Division, whereby the revision application preferred by the petitioner against the order passed by the Competent Authority allowing the respondent's application for leave to defend the proceeding under Section 24 of Maharashtra Rent Control Act stands rejected.

3. I have perused the order dated 23<sup>rd</sup> October 2015 passed by the Competent Authority, Konkan Division. In paragraph 9, the Competent Authority has observed that there was valid and subsisting leave and licence agreement between the petitioner and respondent No.1. On this premise, the Competent Authority has come to a conclusion that the petitioner was in occupation of the premises only as a licensee and not in any other capacity as clear from the documents placed on record on behalf of the licensor/respondent No.1. This order passed by the competent authority has also been confirmed by the Additional Commissioner, Konkan Division. Further even the argument of the petitioner that developer M/s.D.M. Associates had approached the mother of the petitioner and had guaranteed that permanent alternate accommodation would be given to her would also be not relevant for the purpose of adjudication under Section 24 of Maharashtra Rent Control Act.

4. There is no dispute that during the pendency of this proceeding, the impugned order has been executed in as much as the petitioner has already been evicted on 22<sup>nd</sup> April 2016, which is almost 18 months back. Learned Counsel for the petitioner contended that the only concern of the petitioner is the outstanding rent which may be recovered by the respondent and other legal rights of the petitioner to assert that the respondent No.1 is not the owner of the premises. In my opinion, as the impugned order is being sustained finally, the consequences which would flow from the order cannot be stopped. As regards the petitioner's

contention in challenging the respondent's ownership, this issue cannot be subject matter of the present proceeding. If the petitioner had any other legal rights, other than the rights as a licensee, then nothing precluded the petitioner from asserting such rights before appropriate forum. The Court is also informed that already two suits are filed by the petitioner in that regard. If that be so, then, there is definitely no need to interfere in the present proceeding.

5. Accordingly, the Writ Petition lacks merits. Summarily rejected. No costs.

6. Civil Application would also not survive in view of the rejection of Writ Petition. It is accordingly rejected.

**[G.S. KULKARNI, J.]**