

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12870 OF 2018

Smt.Swati Jgannath More

...Petitioner

Versus

Smt.Christina Dias

...Respondent

Mr.Suresh M. Kamble for the petitioner.

Mr.Suresh Rajeshwar for the respondent.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 1st AUGUST 2019.

P.C. :

The petitioner is a licensee and the respondent a licensor. The petitioner took the residential property on license, and that license was for one year. Though it ended on 23rd February 2005, the petitioner continued beyond. In 2011, the petitioner filed a suit for protection from forceful dispossession. He contended that the respondent had been trying to evict him without due process. The trial Court allowed that suit on 21st April 2012.

2. After that, the respondent–licensor invoked Section 24 of the Maharashtra Rent Control Act and filed Application No.36 of 2012 before the Competent Authority, Konkan Division, Mumbai. That was decreed on 4th October 2012. Aggrieved, the petitioner filed Revision

Application No.543 of 2012 before the Divisional Commissioner, Konkan Division, Mumbai. The Revisional Authority set aside the primary authority's order and remanded the matter, through order, dated 5th January 2017.

3. But the respondent licensor questioned the Revision Authority's order in Writ Petition No.4963 of 2017. This Court allowed that writ petition and remanded the matter to the Revisional Authority. This Court wanted the Revision Authority to decide on the petitioner's contention about Section 55 and the petitioner's right to continue in possession. Then the Revisional Authority, through its order, dated 7th June 2018, rejected the petitioner's claim. In other words, it dismissed the revision.

4. Though the petitioner filed this writ petition in 2018, she secured no interim protection. As a result, the respondent had the Revision Authority's order of eviction executed. Thus, he secured possession on 14th May 2019.

5. In this factual background, the petitioner's counsel has submitted that this Court, in the earlier round, noticed two issues: that the suit the licensor instituted was barred by limitation; and that leave and license agreement was not registered, so Section 55 would come

into play. According to the petitioner's counsel, this Court wanted the Revisional Authority to decide those issues. Then, he has also submitted that despite specific mandate from this Court, the Revisional Authority has erred in dismissing the petitioner's revision.

6. In response, the learned counsel for the respondent–licensor has submitted that the order assailed in this writ petition suffers from no legal infirmity. According to him, the very writ petition has become infructuous, as the licensor has already secured the possession.

7. Heard Shri Suresh Kamble for the petitioner and Shri Suresh Rajeshwar for the respondent.

8. Indeed, as contended by the petitioner's counsel, there arose two issues—one about the limitation and the other about registration. This Court in its order, dated 24th August 2018, did observe that the licensor's suit was not barred by limitation. In the face of that observation, the petitioner's counsel trying to contend that there was no discussion on that aspect cuts no ice.

9. The second contention is registration or non-registration. I am afraid that contention carries the petitioner nowhere. Indeed, the Authorities considered the statutory position. The petitioner, as a licensee, admitted that the license ended in 2005. Thereafter, he

continued on an oral license. That said, the law does not compel that every agreement should be in writing. Once there is an oral agreement, as the petitioner himself projected, a person's possession under that oral agreement is nothing more than permissive possession. Then, once the licensor takes recourse to the due process, the respondent could not turn around and assail the arrangement based on which he has continued, in the first place.

At any rate, the Revision Authority has given cogent reason why it has refused to entertain the revision petition. This Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India will not revisit the questions of fact. So I dismiss the writ petition.

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[DAMA SESHADRI NAIDU, J.]