

Rakesh Rohira	...	Petitioner
Vs.		
Prabhakar Umesh Shettigar and another...		Respondents

Mr. Lokesh D. Zade for Petitioner.
Mr. S. A. Abhyankar i/b. Mr. K. T. Thomas for Respondents.

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 6, 2019

P.C. :

Heard Mr. Zade, learned Counsel for the petitioner and Mr. Abhyankar, learned Counsel for the respondents at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 19.04.2018 as also the order dated 23.10.2018 passed by the Additional Commissioner, Konkan Division, Mumbai (for short 'Commissioner') in Revision No.306 of 2018. By order dated 19.04.2018, the Commissioner granted stay to the execution and / or operation of the order dated 21.03.2018 passed by the Competent Authority (Rent Act), Konkan Division, Mumbai (for short 'Competent Authority') in Application No.118 of 2015 subject to respondents depositing Rs.54,000/- with the Competent Authority. By order dated 23.10.2018, the Commissioner partly allowed the Revision Application and set aside the order dated 21.03.2018 passed by the Competent Authority and remitted the matter to the Competent Authority for fresh hearing.

3. Rule. Mr. Abhyankar waives service on behalf of the respondents. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable

forthwith and the Petition is taken up for final hearing.

4. The petitioner herein had filed proceedings under Section 24 of the Maharashtra Rent Control Act, 1999 (for short 'Act') against the respondents herein. By order dated 21.03.2018, the Competent Authority rejected the application made by the petitioners for leave to defend in the said proceedings. On the same day, the Competent Authority allowed the application filed by the petitioner under Section 24 of the Act. The operative part of the order reads thus,

“ **ORDER**

(i) The Application is allowed.

(ii) The Respondents are hereby directed to handover the vacant and peaceful possession to the Applicant of the Application premises i.e. premises bearing flat No.1402, Wing 'A', Shree Adinath Tower CHS Ltd., Veer Savarkar Marg, Near Nancy Colony, Borivali (E), Mumbai 400 066.

(iii) The Respondents are hereby directed to pay to the Applicant, arrears of monthly Licence fees for till 16.10.2015 (as per legal Notice dated 06.10.2015) and double the rate of monthly licence fees i.e. Rs.18,000 x 2 = Rs.36,000/- from 27.05.2015 till vacant possession of the said Application Premises is delivered to Applicant.

(iv) The Applicant is at liberty to appropriate the amount of security deposit, if any.”

5. Aggrieved by that decision, respondents preferred Revision under Section 44 of the Act before the Commissioner. By order dated 19.04.2018, the Commissioner stayed operation of the order dated 21.03.2018 of the Competent Authority subject to their depositing Rs.54,000/- before the Competent Authority.

6. Mr. Abhyankar, on instructions, states that respondents will deposit the amount in terms of clause (iii) of the operative part of the

order of the Competent Authority with the office of the Competent Authority within 5 weeks from today and will not seek further extension of time. He further states that as the Revision Application was disposed of without hearing the respondents, the said order may be set aside and Revision may be restored to the file of the Commissioner for deciding it on its own merits and in accordance with law.

7. In view thereof, by consent of the parties, Petition is disposed of in the following terms:

- a. Order dated 19.04.2018 granting stay is modified. Subject to the respondents depositing amount in terms of clause (iii) of the operative part of the order dated 21.03.2018 passed by the Competent Authority within 5 weeks from today in the office of the Competent Authority, there shall be stay to the order dated 21.03.2018 passed by the Competent Authority;
- b. Order dated 23.10.2018 passed by the Commissioner is set aside;
- c. Revision No.306 of 2018 is restored to the file of the Commissioner;
- d. All contentions of the parties on merits in the Revision Application are kept open;
- e. Rule is made absolute accordingly with no order as to costs.

(R. G. KETKAR, J.)