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

WRIT PETITION NO. 709 OF 2020

Kashinath Krishna Sanas

..Petitioners

Vs

Madhukar Narayan Jambhale & Ors.

..Respondents

Mr. Sameer Kolge for the Petitioner.

Mr. N.D. Waje for respondent No.1.

CORAM : A.S.GADKARI, J.

DATE : 31st January 2020.

P. C.:

1] By present petition under Article 227 of the Constitution of India, the petitioner has impugned Order dated 23rd July 2019 passed by the respondent No.2/ Additional Commissioner, Konkan Division in Revision Application No.886 of 2018 under section 44 of Maharashtra Rent Control Act, 1999, thereby rejecting the said Revision and confirming Order dated 19.10.2018 passed by the respondent No.3/ Competent Authority.

2] Heard learned counsel for the petitioner and the learned counsel for the respondent No.1. Perused record annexed to the petition.

3] The petitioner was put into possession of the suit premises by the respondent No.1 licensor after executing a registered Leave and Licence Agreement dated 18th April 2017 for the period from 15.4.2017 to 14.4.2018. The said Agreement is duly registered before the Joint Sub-Registrar, Andheri, Mumbai

Suburb District, Mumbai. As the petitioner did not vacate the suit premises after lapse of licence period, the respondent No.1 filed proceedings under section 24 of the Maharashtra Rent Control Act, 1999 (for short “the said Act”) bearing Case No.63 of 2018 for eviction of the petitioner.

4] The record indicates that, Application preferred by the respondent No.1 under section 43(4) of the said Act seeking leave to defend was rejected by the respondent No.3 by its Order dated 19.10.2018. By an Order of even date i.e. 19.10.2018, the respondent No.3 allowed the Application preferred by the respondent No.1 under Section 24 of the said Act and directed the petitioner to hand over vacant and peaceful possession of suit premises. Revision Application preferred by the petitioner against respondents has resulted into its rejection by impugned Order dated 23rd July 2019.

5] Learned counsel for the petitioner on instructions submitted that, the petitioner was in possession of the suit premises since 1983 and under misrepresentation made by the respondent No.1, he executed leave and license agreement. He submitted that, the petitioner has already filed a suit for his declaration of tenancy of the suit premises and the same is subjudiced. He therefore submitted that, the impugned Order may be set aside by allowing the present writ petition.

6] Learned counsel for the respondent No.1 submitted that, in furtherance of execution proceedings in favour of respondent No.1, the possession of the suit

premises has already been taken over by the respondent and the respondent No.1 is in actual use, occupation and possession of the suit premises. He submitted that, leave and licence Agreement dated 18th April 2017 is a registered document and the same was signed by the petitioner willingly and consciously. That there are no merits in the petition and the same may be dismissed summarily.

7] Perusal of record would indicate that, the document in question i.e. Leave and Licence Agreement dated 18th April 2017 is a duly registered Agreement before the Competent Authority/Joint Sub-Registrar. The record further indicates that, the petitioner has willingly and consciously signed the said document. The petitioner did not raise objection and without any demur has signed the said document.

Upon a query put by this Court to the learned counsel for the petitioner, whether the petitioner is having Tenancy Agreement or rent receipt issued by the respondent No.1, he fairly conceded that no such documents are available with the petitioner. In the absence of such documents such as Tenancy Agreement and rent receipt issued by the respondent No.1, even remotely an inference cannot be drawn that, the petitioner was a tenant of the suit premises.

8] The record further indicates that, in pursuance of leave and licence Agreement dated 18th April 2017, the petitioner was put in possession of the suit premises, however, he failed to vacate the suit premises on expiry of the said licence Agreement. Both Authorities below have taken into consideration necessary

parameters as contemplated under sections 24 and 44 of the said Act while passing Orders.

9] There is a concurrent finding recorded by both the Authorities established under the said Act. The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil*, reported in (2010) 8 SCC 329 has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases, where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to

ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423.*

10] After perusing the record, this Court is of the considered view that, both Authorities below have not committed any error either in law or on facts while passing the impugned Orders.

There are no merits in the present petition and is accordingly dismissed.

(A.S.GADKARI, J.)