

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

24 WRIT PETITION NO.3242 OF 2021

**R P ENTERPRISES THROUGH ITS PROPRIETOR SHAKIBODDIN
BAHAUDDIN USTAD**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

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Advocate for Petitioner: Mr. Choudhari M S
AGP for Respondents/State: Mr. S. G. Karlekar

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 22nd FEBRUARY, 2021

PER COURT:

1. We have heard Mr. Chuodhari, learned Counsel for the petitioner.

2. The learned Counsel submits that the petitioner is tenant over the suit shops. The petitioner has been legally inducted in possession. The petitioner has parted with Rs. 17,50,000/-. Now the respondents have issued notice for eviction of the petitioner. The respondents no. 4 and 7 have failed to execute the Lease Deed in favour of the petitioner. They deserve to be directed to execute Lease Deed in

favour of the petitioner. Further enquiry be made against respondents no. 5 and 6 and other employees in respect of misappropriation of rent. The petitioner has filed a civil suit before the competent Civil Court challenging the notice issued to him for eviction / possession.

3. The Exhibit-5, filed by the petitioner for temporary injunction is rejected. The petitioner has filed an appeal. The learned Counsel submits that the appeal is already dismissed. In that case, the petitioner may have remedy under Article 227 of the Constitution of India as may be permissible under law.

4. The Civil Court has observed about the petitioner not in a position to show the amount deposited by him.

5. Be that as it may, in writ jurisdiction, we would not go into the investigation of the disputed question of fact as to whether the petitioner has deposited the amount or not. It is

for the Civil Court to decide and parties to prove by adducing the evidence.

6. In view of the fact that the dispute between the parties is subjudice before the Civil Court, it would not be appropriate to exercise the writ jurisdiction under Article 226 of the Constitution of India. If the orders passed by the Civil Court are against the petitioner, the petitioner may avail the remedy as is permissible under law. In that regard, all contentions are kept open.

7. Writ Petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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