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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 7405 OF 2022**

GOBIND PRAKASH AGARWAL AND ANR

....PETITIONERS

V/s.

**COMPETENT AUTHORITY, RENT CONTROL
ACT,
KONKAN DIVISION AND ORS**

.....RESPONDENTS

Mr. Atul Damle, Senior Advocate a/w Ms. Payal V. i/b Rita Dedhia
Advocate for the Petitioners

Mr. S. D. Rayrikar AGP for Respondent nos. 1 & 2

Mr. Ashutosh Kaushik a/w Priya Tiwari i/b Kaushik & Co. for
Respondent no. 3

CORAM : NITIN W. SAMBRE, J.

DATE: JULY 1, 2022.

P.C.:

1) Based on leave and licence dated 06/06/2011, proceedings taken out under Section 24 of the Maharashtra Rent Control Act (Hereinafter referred to as 'the Act' for the sake of brevity) resulted into eviction of the Petitioner in execution on 22/03/2022.

2) Order passed under Section 24 of the Act on 25/11/2021 informs to be challenged in should have been which was delayed by 45 days condonation of which is rejected by authority. As such, this

Petition.

3) Contention of Mr. Damle, learned senior counsel is, right to Appeal is statutory right under Section 44 of the Maharashtra Rent Control Act. There is delay of 45 days for the genuine reason viz. Petitioner remained outside the country from 27/01/2020 to 24/02/2022 in view of the pandemic. He would urge that by putting the Petitioner to reasonable condition, delay be ordered to be condoned so that Appeal/Revision can be heard on merit.

4) Prayer moved is strenuously objected by the counsel for the Respondent as according to him, there hardly remains anything in the Revision as eviction is already executed. He would urge that if Court intends to conclude in favour of the Petitioner, Petitioner should be put to certain reasonable condition of deposit of the said amount.

5) I have appreciated said submissions.

6) Proceedings under Section 44 of the Maharashtra Rent Control Act admittedly were delayed by 45 days and prayer for condonation of delay is rejected vide order impugned dated 04/05/2022 by the Additional Commissioner, Konkan Division.

7) Fact remains that right to Appeal is a statutory right. Delay

prima facie appears to be explained as it is claimed by the Petitioners that they were outside the country as stated herein above.

8) The fact that Petitioner has already lost the possession as is claimed by the Respondent will be of hardly any significance at this stage as the said issue can be looked into by the authority while dealing with proceedings under Section 44 of the Act.

9) In the aforesaid background, order impugned dated 04/05/2022 passed by Additional Commissioner, Konkan Division, Mumbai is hereby quashed and set aside. Application for condonation of delay stands allowed subject to deposit of cost of Rs. 50,000/- before the said Authority within period of 4 weeks from today.

10) Respondent shall be entitled to withdraw the said cost. The issue as regards whether the Petitioner can be put to reasonable condition of depositing the amount outstanding towards accommodation charges can be looked into by the said authority, if a prayer to that effect is taken out by the Respondent.

11) Petition stands allowed in the above terms.

[NITIN W. SAMBRE, J.]