

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

**WRIT PETITION NO.59 OF 2020**

Sayyad Israr Hussain

...Petitioner

Versus

Shekh Madar Fakir Badhshaha and  
Ors.

...Respondents

...

Mr. Kirankumar Phakade for the Petitioner.

Mr. M.D. Modgi for Respondent No.1.

Mrs. V.S. Nimbalkar, AGP for Respondent Nos.2 and 3.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 18<sup>th</sup> OCTOBER, 2023.**

**P. C. :-**

1. The Petitioner-licensee has by this petition under Article 227 of the Constitution of India challenged the judgment and order dated 20/12/2019 passed by the Additional Commissioner, Konkan Division in Revision Application No.699 of 2019. By the impugned judgment, the Additional Commissioner dismissed the revision application and thereby confirmed the eviction order dated 18/10/2019 passed by the Competent Authority in Eviction Application No.72 of 2019.

2. The Respondent is the owner of the premises being Room

No.320, B-3, C Wing MHADA Colony Subhash Nagar, Nahur Village Road, Bhandup (west), Mumbai. The Applicant was inducted in the said premises as a licensee on payment of license fee of Rs.6,000/- per month under Leave and License Agreement commencing from 30/11/2013 till 01/10/2014. Upon expiry of the license period, the license term was extended from time to time under different agreements. The last Leave and License Agreement dated 14/09/2015 was for a period of 11 months commencing from 14/09/2015 to 31/08/2016 on payment of license fee of Rs.7,000/- per month. The Petitioner having failed to vacate the premises upon expiry of the license term, despite receipt of the notice, the Respondent-landlord filed an application under Section 24 of the Maharashtra Rent Control Act, 1998.

3. The Petitioner applied for leave to defend under Section 43 (4) of the Rent Act. By order dated 18/10/2019 the Competent Authority dismissed the application for leave to defend. The Competent Authority upon considering the material on record observed that the Petitioner was a licensee and that he had failed to vacate the premises after the expiry of the license period and hence by the impugned order dated 18/10/2019 allowed the application and

directed the Petitioner to handover vacant and peaceful possession of the suit premises with further directions to pay compensation @ Rs.14,000/- per month from 01/09/2016 till handing over possession of the suit premises.

4. Being aggrieved by the said order the Petitioner filed a revision application before the Additional Commissioner under Section 44 of the Maharashtra Rent Control Act, 1999. The Petitioner had challenged the order mainly on the ground that the Respondent had allowed him to occupy the premises by accepting Rs.5,50,000/- and further that he had agreed to convey right, title and interest in respect of the suit premises in his favour for sale consideration of Rs.11,50,000/-. The Additional Commissioner whilst rejecting the revision application observed that the Petitioner has not disputed genuineness of the Leave and License agreement. It was further observed that he has not placed on record any document to prove that the Respondent herein had agreed to sell the premises.

5. Learned counsel for the Petitioner submits that the Respondent had agreed to sell the premises to the Petitioner and that the Petitioner has filed a suit for specific performance. It is pertinent

to note that the Competent Authority while dismissing the application for leave to defend has observed that the dispute was not in respect of the sale of the premises but was only in respect of recovery of Rs.5,50,000/-. The suit filed by the Petitioner was not for specific performance of any agreement but for recovery of said amount of Rs.5,50,000/-. Moreover, it is admitted that the said suit was dismissed on 15/09/2021 and that till date no application has been filed for restoration of the said suit. This puts an end to the controversy relating to sale of the premises in favour of the Petitioner.

6. Now coming to the merits of the matter, Section 24(1) of the Maharashtra Rent Control Act, which begins with non-obstante clause, provides that a licensee in possession or occupation of premises given to him on license for residence shall deliver possession of such premises to the landlord on expiry of the period of license; and on failure of the licensee to so deliver, a landlord shall be entitled to recover possession of such premises from a licensee, on the expiry of a period of license, by making an application to the Competent Authority. Sub-section (2) of Section 24 stipulates that any licensee who does not deliver possession of the premises to the landlord on expiry of the period of license and continues to be in possession of the

licensed premises till he is dispossessed by the Competent Authority, shall be liable to pay damages at double the rate of the license fee or charge of the premises fixed under the agreement of license. Sub-section (3) of Section 24 provides that the Competent Authority has no jurisdiction to entertain any claim of whatsoever nature from any other person who is not a licensee according to the agreement of license. Clause (b) to the Explanation to Section 24 clearly provides that an agreement of license in writing shall be conclusive evidence of the fact stated therein.

7. It is pertinent to note that Section 24 coupled with the provision set out in Chapter VIII of the Maharashtra Rent Control Act enables the landlord to resort to the summary proceedings to evict the licensee who has failed to vacate the premises after the expiry of the period of license. In the instant case, both the authorities have observed that the Petitioner is a licensee and that he has failed to vacate the premises after expiry of the license period and that he had failed to pay the license fee after the expiry of the license period.

8. Having gone through the material on record, in my considered view, findings recorded by both the authorities are neither

illegal nor perverse. Hence, no case is made out for interfering with the orders in exercise of the powers under Article 227 of the Constitution of India.

9. Under the circumstances and in view of the discussion supra, the Petition is dismissed.

10. Interim Applications, if any, stand disposed of in view of dismissal of the Writ Petition.

11. Order dated 06/01/2020 indicates that the Petitioner had undertaken to deposit compensation of Rs.5,60,000/- in the registry of this Court towards balance of compensation awarded by the authorities below. With consent, leave granted to the Respondent to withdraw the said compensation.

**(SMT. ANUJA PRABHUDESSAI, J.)**