

Pallavi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3244 OF 2023**

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Smt. Sayed Almas Naveed Kadri ... Petitioner
Versus
Fahim Abdul Rehman Dalvi
Through his C.A.
Mrs. Shadab Fahim Dalvi ... Respondent

- Mr. Yogendra M. Pendse, for the Petitioner.
- Mr. Sandeep Mishra, for the Respondent.

**CORAM: MADHAV J. JAMDAR, J.
DATE : 16th MARCH 2023**

P.C.:

1. By the present Writ Petition, the Petitioner is challenging the legality and validity of order dated 28th February 2023 by which the Additional Commissioner, Konkan Division, Mumbai has refused to grant stay in Revision filed under section 44 of the Maharashtra Rent Control Act, 1999. In the said Revision, the Petitioner has impugned order dated 2nd February 2022 issuing possession warrant.

2. The factual position on record shows that the Respondent has filed Case No.51 of 2018 before the Competent Authority (Rent Act) Konkan Division, Mumbai under section 43 of the Maharashtra Rent Control Act and by order dated 11th October 2018 passed by the learned Competent Authority, Konkan Division, Mumbai, the Petitioner was directed to hand over vacant and peaceful possession of suit premises from the Respondents within 30 days and further directed to pay arrears of monthly compensation of Rs.9,000/- p.m. since January 2016 till handing over vacant possession of the flat. The Petitioner challenged the said order by filing Revision under section 44 of the Rent Control Act and the said Revision was rejected

by order dated 23rd August 2019 by the Additional Commissioner, Konkan Division, Mumbai.

3. Thereafter, the Petitioner filed Writ Petition No.119 of 2020 challenging the aforesaid two orders and the said Writ Petition was withdrawn as suit was pending before the Civil Court. It appears that the plaint filed in Civil Court has been rejected under Order VI R 11(d) of the Civil Procedure Code, 1908 and the Appeal challenging the same is pending before the learned Appellate Court.

4. By the said order dated 2nd February 2023, possession warrant is issued in terms of aforesaid orders dated 11th October 2018 and 23rd August 2019 which have attained finality as Writ Petition challenging the same has been withdrawn.

5. Thus, there is no illegality in the order passed by the Additional Commissioner, Konkan Division, Mumbai in rejecting the stay application. Therefore, no valid ground is raised to interfere under the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India. Writ Petition is dismissed. No costs.

(MADHAV J. JAMDAR, J.)