

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4552 OF 2023
IN
WRIT PETITION NO. 3993 OF 2023

Jagriti Rajesh Kajaria.

..Applicant.

In the matter between :

Preeti Achal Pande.

...Petitioner.

Versus

Achal Saran Pande.

..Respondent.

Mr. Naushar Kohli and Mr. Karshil Shah i/b Kanga & Co., for the applicant.
Mr. Ammaar Sariya i/b Ms. Lubana Ansari for the petitioner.
Ms. Pooja Jalan for the respondent.

Coram : Sharmila U. Deshmukh, J.

Date : July 4, 2023.

P. C. :

1. The applicant is seeking impleadment as a party respondent in the present writ petition which has been filed seeking to challenge the order of Family Court, Bandra, Mumbai dated 13th February 2023 directing the petitioner to vacate the premises. The petitioner and the respondent are husband and wife and the dispute is matrimonial dispute. The applicant seeks intervention as the owner of subject flat. It is the case of applicant that the applicant-owner had executed with the respondent-husband a leave and licence agreement, pursuant to

which possession of the flat was handed over. It is the case of applicant that the leave and licence agreement has come to an end by efflux of time and as such the applicant is entitled to vacant and peaceful possession of the subject flat. It is his case that by reason of matrimonial dispute pending between the parties, the petitioner – wife has refused to vacate the suit premises in spite of the orders of Family Court as well as this Court. Armed with this, the applicant has preferred the present application.

2. The fact about which there is no dispute is that the applicant is the owner of subject premises in respect of which the leave and licence agreement was executed between the applicant and the respondent-husband. It is also not disputed that the petitioner-wife is residing in the said premises. In these circumstances, the remedy of applicant is to approach the competent authority and seek order of eviction and to implement the same. By permitting the applicant to intervene in this proceedings, scope of the petition would be expanded. Considering that an alternate remedy is available to the applicant to enforce her rights in respect of the subject premises, in my opinion, the applicant is not required to intervene in the present writ petition. Interim application stands dismissed.

[Sharmila U. Deshmukh, J.]