

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6467 OF 2023

Rawal Ranchodkumar Tarachand

...Petitioner

Versus

The Additional Commissioner,
Konkan Division, Mumbai & Ors.

...Respondents

...

Mr. Premlata Jain, for Petitioners.

Ms. Kavita N. Solunke, AGP for State.

...

CORAM: SANDEEP V. MARNE, J.
(Vacation Court)

DATE : 25th May 2023.

P.C.:

1. By this petition petitioner challenges the order dated 10th May 2023 passed by the Additional Divisional Commissioner, Konkan Division thereby refusing to grant any interim stay to the order dated 10th March 2023 passed by the Competent Authority. By order dated 16th March 2023 the Competent Authority has directed the petitioner to handover vacant and peaceful possession of the application premises within a period of 30 days in addition to payment of damages.

2. Admittedly the tenure of the leave and license agreement made between the parties expired on 31st December 2021. It is contention of the learned counsel appearing for the petitioner that the true nature of transaction between the parties is not of license but of sale. She would submit that the Respondent No.3 and 4 have in fact agreed to sale the application premises in favour of the petitioner who has advanced part consideration. She would further submit that the petitioner has instituted civil suit for specific performance of agreement to sale.

3. If the petitioner has any right flowing out of alleged agreement to sale in respect of the application premises, the petitioner is free to pursue the same. The possession of the application premises were handed over to the petitioner on the strength of the leave and license agreement. The tenure of last leave and license agreement has expired on 31st December 2021. Mere pendency of suit for specific performance of alleged agreement to sale would not be a valid reason for him to continue to occupy the application premises. Therefore no interference is warranted in the orders passed by the Divisional Commissioner.

3. I do not find any merit in the present petition. Writ Petition is dismissed without order as to costs.

(SANDEEP V. MARNE, J.)