

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO.4165 OF 2018**

Rajesh Mithabhai Patel

... Petitioner

**V/s.**

Bipin Shrikisan Jaju & Ors.

... Respondents

Mr. Swaroop M. Karade for the petitioner.

Mr. Uday B. Nighot for the respondent No.1.

Mr. M.G. Patil, APP for the State.

**CORAM : AMIT BORKAR, J.**

**DATED : APRIL 21, 2023**

**P.C.:**

1. The challenge in this petition is to the order passed by Consumer District Forum refusing to recall order of issuance of process in a proceedings under section 27 of the Consumer Protection Act, 1986.

2. The District Forum by order dated 12<sup>th</sup> January 2009 allowed the Consumer Complaint No.614 of 2002 directing the complainant and opponents to comply with clauses 1 and 2 of the operative part of the judgment. Clause 3 of the order directs the opponent to deliver possession of shop No.8 after receipt of amount as contemplated by clauses 1 and 2 of the operative part. The petitioner is original opponent No.11. The consumer complaint arose out of privity of contract between the complainant

and opponent Nos.1 to 4. The right claimed by the petitioner is of tenancy. The opponent No.11 challenged the order of Consumer Forum by appeal which was subsequently withdrawn. The order of Consumer District Forum has attained finality.

3. The obligation created under clauses 1 and 2 of the District Forum's order is between the original complainant and opponent Nos.1 to 4. The petitioner claims to be in possession based on his alleged right of tenancy. The petitioner is no way concerned with the obligation created between the complainant and opponent Nos.1 to 4. If clauses 1 and 2 of the District Forum's order are not complied with, it has no relevance on the direction against the petitioner to deliver possession. If that be so, the order of issuance of process against the petitioner cannot be faulted. There is no merit in the petition.

4. The writ petition is dismissed. No costs.

**(AMIT BORKAR, J.)**