



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4172 OF 2023

RAJESH @ KALYA DAYARAM @ UDARAM SHARMA VS. KAMALSINGH GUMANSINGH RAJPUT

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. C.A.Joshi, Mr. S.C.Joshi and Mr. R.M.Tiwari Advocate
for petitioner.

CORAM : ANIL S. KILOR J.

DATE : AUGUST 29, 2023

This matter pertains to eviction of the licensee by the landlord. The petitioner is the licensee and the respondent is the owner of the suit property.

2. The suit property consists of two rooms, which was according to the plaintiff, was permitted the petitioner to occupy for one year and it was continued. However, even after termination of the license, he was continued to be in possession of the suit property and did not vacate the same.

3. Therefore, a suit for eviction and possession was filed by the respondent, which came to be decreed vide judgment and order dated

28/09/2018, passed by the 2nd Joint Civil Judge Junior Division, Akola.

4. Being aggrieved by the same, the petitioner filed an appeal before the District Judge-1, Akola, who has confirmed the decree of eviction passed by the trial Court by dismissing the appeal vide its judgment and decree dated 08/08/2022, the same is under challenge in this Writ Petition.

5. Both the Courts below have recorded the concurrent findings that the petitioner is a licensee and it was legally terminated. Furthermore, it has also held that the petitioner failed to prove that he is in possession for last 30 years.

6. The learned counsel for the petitioner submits that both the Courts below have failed to consider the evidence of one Haridas Lodiya, who is categorically stated in his examination-in-chief that the petitioner is residing in the suit house from last 30 years.

7. However, after going through the cross-examination of the witness it appears that, he does not know anything about the family of the petitioner or any other information of the petitioner.

Therefore, both the Courts below have rightly discarded the said evidence in absence of any other cogent and reliable oral or documentary evidence.

8. As it has rightly observed by both the Courts below that the license was legally terminated, the impugned judgment and order does not require any interference.

9. Accordingly, the writ petition is dismissed.
No costs.

[ANIL S. KILOR J.]