



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

Writ Petition No.6244 of 2019

Mohd. Sajid s/o Inamur Rahim Vs. Mazhar Salim s/o Ibrahim Khan

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.A. Choube, Advocate for the Petitioner/s
Shri Sandeep Marathe, Advocate for the respondent-sole

CORAM : ANIL S. KILOR, J.
DATED : 27.07.2023

1. Heard.
2. The petitioner is a tenant whereas the respondent is a landlord. The respondent filed an application under section 24 of the Maharashtra Rent Control Act, 1999 (for short "the Rent Act") for ejectment and possession in view of Lease and License Agreement. The learned trial Court issued summons to the petitioner and an envelope sent through post was received back on 22.11.2018 with an endorsement 'unclaimed'.
3. The petitioner thereafter appeared in the said proceeding on 30.11.2018 to collect the copy of summons which he had returned as 'unclaimed' on 22.11.2018. However, the petitioner failed to file an affidavit, stating ground on which he seeks to contest the application for eviction within 30 days as per Section 43(4)(a) of the Rent Act. Hence,

the application filed by the petitioner on 21.06.2019 for grant of permission to produce reply, was rejected by the learned trial Court vide order dated 06.07.2019. Hence, this petition.

4. On perusal of the record and the impugned order, it is evident that undisputedly, the petitioner appeared in the proceeding before the trial Court on 30.11.2018 and even if the said date is considered for calculating 30 days as per Section 43(4)(a) of the Rent Act, no reply was filed within 30 days.

5. The application was moved by the petitioner on 24.12.2018 for adjournment for filing reply came to be rejected by the trial Court vide order dated 24.12.2018. In the circumstance, even if the arguments of the learned counsel for the petitioner is accepted that, the learned trial Court committed error in calculating a period of 30 days from 22.11.2018 and thereby, rejected the application for adjournment, there is no dispute that the petitioner had a period of 7 days in his hands on calculation of 30 days from the date of appearance of the petitioner from 30.11.2018. However, no application was moved for permission to file reply within 30 days from 30.11.2018. The period of 30 days was ended on 30.12.2018. Whereas, the application was filed for permission to file reply on 21.06.2019 i.e. after about six months.

6. In the circumstances, even if the arguments for the learned counsel for the petitioner is accepted that, the learned trial Court ought to have calculated the time period of 30 days from the date of appearance i.e. 30.11.2018, the petitioner has no case, as even from that date the reply was not filed within 30 days. In the circumstance, no case is made out for interference, accordingly, the writ petition is **dismissed**.

(ANIL S. KILOR, J)

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