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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.1823 OF 2024

Harshul Parikh

..Petitioner

V/s.

Additional Divisional Commissioner

And Ors.

..Respondents

Mr.Ved Chetan Patil with Mr.A. P. Singh for the Petitioner.

Ms.Sushama Bhende – AGP for Respondent Nos.1, 2 & 6.

Mr.Yash Arora with Mr.Jeetendra Rajguru for Respondent Nos.3
& 4.

Ms.Nidhi Cheeda, for Respondent No.5.

CORAM : RAJESH S. PATIL, J.

DATE : 20TH FEBRUARY, 2024.

P.C. :-

1. Rule. By consent of the parties, Rule is made returnable forthwith and heard finally.

2. This Writ Petition filed by the `licensee` challenges the judgment and order passed by the Competent Authority on 8 May 2023 and as confirmed by the Additional Divisional

Commissioner, Konkan Division, Mumbai by a judgment and order dated 3 January 2024.

3. Respondent Nos.3 and 4, are admittedly the owners of Flat No.A-2505, 25th Floor, Omkar 1973, Off Annie Besant Road, Doordarshan Lane, Worli, Mumbai 400 030 (for short “the suit premises”).

4. By a Leave and License Agreement, Respondent Nos.3 and 4 allowed the Petitioner to use the suit flat for the period of 12 months commencing from 1 September 2021 till 31 August 2022. The Petitioner was supposed to pay a sum of Rs.2,50,000/- per month as the license fees and a sum of Rs.10,00,000/- interest free refundable by way of deposit.

5. The Petitioner failed to vacate the suit premises after the license period came to an end. Hence, Respondent Nos.3 and 4, the owners / licensors filed an eviction proceedings before the Competent Authority under the Rent Control Act, Konkan Division at Mumbai, under the provisions of Section 24 of the Maharashtra Rent Control Act.

6. By a judgment and order dated 8 May 2023, the

Competent Authority passed an order thereby directing the Petitioner to hand over vacant and peaceful possession of the suit premises, to Respondent Nos.3 and 4 within 30 days from the date of the order, and further directed the Petitioner to pay damages to Respondent Nos.3 and 4 at the rate of Rs.5,00,000/- per month (Rs.2,50,000/- x 2 i.e. Rs.5,00,000/-) from 1 September 2022 till handing over vacant and peaceful possession of the suit premises.

7. The Petitioner being dis-satisfied with the judgment and order dated 8 May 2023 passed by the Competent Authority, filed a Revision Application under Section 44 of the Maharashtra Rent Act before the Additional Divisional Commissioner, Konkan Division, Mumbai.

8. During the pendency of the Revision Application before the Additional Divisional Commissioner, Konkan Division, Mumbai, possession of the suit premises was handed over to Respondent Nos.3 and 4 in the month of July 2023.

9. The Revisional Authority thereafter heard both the parties and by a judgment and order dated 3 January 2024

confirmed the order passed by the Competent Authority, and rejected the Revision Application. The present Writ Petition challenges the concurrent findings recorded by both the Authorities.

10. Mr.Patil appearing for the Petitioner made his submission that the possession was in fact handed over by the Petitioner on 31 August 2022, by handing over one set of keys to Respondent Nos.3 and 4. Mr.Patil further submits that as there were certain matrimonial disputes between the Petitioner and his wife, the second set of keys could not be handed over immediately and the second set of keys was handed over in the month of July 2023 after the wife of the Petitioner handed over the second set of keys to the Petitioner. Mr.Patil submits that the Petitioner was ready and willing to honor the clauses in the leave and license agreement. However because of the disputes between the Petitioner and his wife, he could not honor the terms of the leave and license agreement. He submits that since the wife of the Petitioner refused to vacate the suit premises, inspite of the Petitioner making alternate arrangement for her to

reside, the Petitioner was not able to hand over the second set of keys to Respondent Nos.3 and 4.

11. Mr.Yash Arora appearing for the licensors submits that the leave and license agreement had come to an end on 31 August 2022. He submits that his client being the licensors, requested the licensee to vacate the suit premises. He submits that there is no dispute that the leave and license agreement is a registered document. He submits that there is no dispute that the said leave and license agreement has been signed by the parties. He also submits that there is no dispute that the leave and license agreement was terminated on 31 August 2022. He submits that the *inter-se* disputes between the family of the licensee i.e. the Petitioner and his wife, the licensor should not suffer. He submits that since the suit premises was taken on a leave and license basis, it was the duty of the licensee that he should hand over the vacant and peaceful possession of the suit premises to the licensors after the license period is over. He therefore, submits that there is no merit in this Writ Petition, which challenges the concurrent findings recorded by the

Competent Authority. Therefore, the Writ Petition should be dismissed with exemplary costs and he also submits that since the Execution Proceedings have already been filed, the hearing of the Execution Proceedings should be expedited.

12. Mr.Yash Arora further submits that apart from the properties which are shown in the schedule annexed to the D.V. proceedings filed the wife of the Petitioner, the Petitioner owns much more property, which includes the property, which is transferred in name of a Trust, which is in the name of the Petitioner's father. He submits that there are at least two more bank accounts where the balance amount as of today is more than One crore.

13. Ms.Cheeda appearing for Respondent No.5 (wife of the Petitioner) submits that the Petitioner had promised to her client that after the license period of the suit premises comes to end i.e. 31 August 2022, he will make new arrangement for her to residence. She submits that inspite of the assurance by the Petitioner that he will make arrangement for new premises, in order that her client i.e. Respondent No.5 can reside in the new

premises, however, after giving assurance and even after he signing a new leave and license agreement on 1 October 2022, he terminated the said leave and license agreement, which was to commence from 7 October 2022. She further submits that even as of today, the Petitioner (husband) has not made any kind of arrangement for his wife to reside. She therefore, submits that even in the present Writ Petition, a photocopy of the Domestic Violence proceedings along with schedule has been annexed. She submits that the said schedule shows that the Petitioner is in possession of and is the owner of many flats in South Mumbai along with cars, such as Porche Cayman, Audi model A4.

14. Mr.Patil appearing for the Petitioner submits that all the submissions made by the counsel appearing for Respondent Nos.3 and 4 and also by the counsel appearing for Respondent No.5 are false submissions. He submits on instructions of his client that as of today the situation of the Petitioner is in such a nature that he has huge financial difficulties.

15. I have heard both the sides and have gone through the

impugned judgment and order passed by the Competent Authority, and Additional Divisional Commissioner, Konkan Division, Mumbai.

16. The landlord filed the eviction proceeding under Section 24 of the Maharashtra Rent Control Act. Both the Competent Authorities have come to a conclusion that the suit premises which was given on leave and license basis, there was no dispute as to the signature of the parties on the leave and license agreement. The period of the leave and license agreement expired on 31 August 2022, which according to the parties were extended for 15 days i.e. uptill 15 September 2022. Both the Courts have passed eviction order against the Petitioner and also directed the Petitioner to pay damages, as per the provisions of Section 24(2) of the Maharashtra Rent Control Act.

17. The possession of the suit premises has admittedly handed over to the landlords / licensors in the month of July 2023 by handing over the second set of keys by the Petitioner to the licensors. Therefore all that the Court has to see whether the Petitioner has paid the amount as directed by the Competent

Authority.

18. Admittedly, the Petitioner has not paid the amount, as directed by the Competent Authority. There is no justification for non-payment of license fees. Dispute between the Petitioner and his wife, will not have any bearing on proceedings filed for eviction and damages pursuant to leave and license agreement. There is no merit in the Writ Petition. The Writ Petition is accordingly dismissed. The execution application filed by the licensors before the Competent Authority is hereby expedited.

19. All parties to act on the authenticated copy of this order.

(RAJESH S. PATIL, J.)