

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9615 OF 2023

ALONGWITH

INTERIM APPLICATION NO. 15483 OF 2023

IN

WRIT PETITION NO. 9615 OF 2023

Pooja Jagannath Pimple & Anr.

**..... Petitioner/
Applicants**

VERSUS

**Additional Commissioner Kokan
Division & Anr.**

..... Respondents

Mr.C.P.Deogirikar a/w. Mr.Drupad Patil, Mr.Sameer Logade for the
Applicants.

Mr.A.M.Saraogi a/w. Mr.Manoj Singh, Mr.A.R.Pandey for the
Respondent No.2.

CORAM: RAJESH S. PATIL, J.

DATE : 8 JANUARY, 2024

P.C. :-

This interim application is filed by the licensee, under the
leave and licence agreement.

2. The concurrent findings recorded by the Competent
Authority under section 24 of the Maharashtra Rent Control Act
and the Revisional Authority under section 44 of the Maharashtra

Rent Control Act.

3. The respondent is admittedly the owner of the premises being Flat No.D/62, 6th Floor, Rustomjee Riviera, Marve Road, Malad (West), Mumbai – 400 064. The petitioner and the respondent had entered into the registered leave and licence agreements, last of such leave and licence agreement ended on 28 February, 2017. The monthly licence fees payable was Rs.50,000/- per month. Since the parties did not enter into any fresh leave and licence agreement after 28 February, 2017, the respondent landlord filed eviction application No. 84 of 2019 before the Competent Authority under section 24 of the Maharashtra Rent Control Act. After the parties were heard, and considering the evidence on record, the Competent Authority by its judgment and order dated 28 November, 2022 allowed the eviction application of the licensor and directed the licensee (petitioner herein), to handover the vacant and peaceful possession of the suit premises. Further, the licensee was also directed to pay the damages to the licensor at the rate of

Rs.1,00,000/- per month (Rs.50,000 x 2 = Rs. 1,00,000/-) from 1 April, 2017 till handing over the vacant possession.

4. The licensee thereafter challenged the judgment and order dated 28 November, 2022 passed by the Competent Authority, by way of revision under section 44 of the Maharashtra Rent Control Act before the Additional Commissioner. The Additional Commissioner after hearing the parties, by its judgment and order dated 24 May, 2023 rejected the revision filed by the licensee.

5. The present writ petition is filed by the licensee challenging the concurrent findings recorded by the authorities.

6. Learned advocate for the respondent/licensor has placed before this Court a photocopy of an undertaking dated 19 December, 2023, filed by the licensee before the Competent Authority. For ease of reference, the said undertaking given by the licensee is produced hereinbelow :-

IN TO THE COURT OF HONOURABLE RENT CONTROL
AUTHORITY, BANDRA, MUMBAI APR 15/23
811114

EXP - 8 / 2023

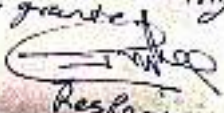
Hareesh Sharma
V/S
Pooja Pimphe

... Applicant
... Respondent

Under taking By -

It May Please Honourable court,
That the above said matter is for execution in
this Honourable court.
Because at Personal liability
Arrears amount order was passed for 72 lakh in by
this Honourable court.
Till today 23 lakh is Deposited in this Honourable
Court. Also Applicant Holds 20.2 lakh Refers Deposit is
With Applicant.
Respondant with this application undertakes to
Pay upto 5 lakh till 10th January 2024 and He also
undertakes to clear pending arrears by 31st January
2024.
Therefore considering the same undertaking
Execution relief may please be granted.

Place - Mumbai
Date - 19/12/2023


Respondent No.

7. It is the case of the licensor that after such a solemn undertaking was given by the licensee with the Competent Authority, they have not complied with the said undertaking and have not deposited any money as per the undertaking given by them.

8. It is admitted fact that even today, the licensee is in possession of the suit premises.

9. Mr.Deogirikar, learned counsel appearing for the petitioner submits that his client wants to file a suit for specific performance against the licensor, for which he requires two months' time.

10. No satisfying reason is shown by the licensee not to comply with the undertaking given before the Competent Authority. The licensee has sought time to deposit certain amount for clearing the arrears.

11. No case is made out to interfere with the concurrent findings recorded by the Competent Authority and the Additional

Commissioner, Konkan Division.

12. Hence writ petition is dismissed. No costs.
13. Pending interim application is also disposed of.

[RAJESH S. PATIL, J.]