

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.18104 OF 2022
IN
WRIT PETITION NO.10855 OF 2022

M. Ramachandran Nair ... Applicant / Petitioner

V/s.

The State of Maharashtra and Ors ... Respondents

Mr. Ramprakash R. Pandey a/w Adv Udaybhan Tiwari, Advocate for the Applicant / Petitioner.

Mr. P. P. Pujari – AGP for Respondent No.1-State.

Adv. Balwant Salunke, Advocate for Respondent Nos.2 & 3.

CORAM : RAJESH S. PATIL, J.

DATED : 11 JANUARY 2024

P.C.:

1. This Writ Petition challenges the impugned Order on 18 August 2022, passed by the Additional Commissioner, Kokena Division, Mumbai and the concurrent findings recorded by impugned Order dated 7 September 2021 passed by the Competent Authority, Bandra Mumbai. It is the case of the petitioner that they are the tenants of the suit premises for last more than 21 years. It is the case of the petitioner that respondent nos. 2 and 3 had earlier filed a suit for eviction under the Maharashtra Rent Control Act, on the ground of nuisance and on the ground of non payment of rent. And in the said suit the plaintiff have themselves mentioned that for

a period a more than 19 years the defendant tenant is a occupation of the suit premises and he is a nuisance to the neighbors. The said suit was withdrawn by the plaintiff which was disposed of by Order dated 13 January, 2012 passed by Civil Judge, Senior Division Kalyan. For ease of reference the order dated 13 January, 2012 is reproduce herein below.

Order below Exh.1 in Reg. Civil Suit No.209/2010.

The present suit is instituted for eviction. Today plaintiff, her counsel and defendant are present. The plaintiff has filed pursis Exh.18 contending that the plaintiff wants to unconditionally withdraw the suit. Hence, I am inclined to pass the following order:-

ORDER

The suit is disposed off as unconditionally withdrawn.

2. After the disposal of the suit the plaintiff has filed the Application dated on 15 May 2012 before the Competent Authority, seeking possession on the grounds that the agreement between the parties is leave and license.
3. The petitioner has denied that there was leave and license agreement between the parties. It is further case of the petitioner that petitioner is a tenant in respect of the suit premises.
4. Rule.
5. The hearing of the Writ petition is expedited. In the meanwhile, there will be ad interim relief till the disposal of Writ Petition in terms of prayer clause (b) and (c) of the petition. Prayer clause (b) and (c) of the Petition read as under:-

(b) Pending the hearing and final disposal of the present petition, this Hon'ble Court may be pleased to stay the impugned orders dated 18.08.2022 Ld. Addl. Commissioner, Konkan Division, Mumbai and order dated 07.09.2021 passed by the Competent Authority, Bandra, Mumbai;

(c) pending the hearing and final disposal of the present petition, this Hon'ble Court may be pleased to stay the Execution proceeding, being Execution Application No.102 of 2021 filed by the respondent No.2 and 3 which is pending before the Ld. Competent Authority, Bandra, Mumbai;

6. This Interim Application is disposed of accordingly.

(RAJESH S. PATIL, J.)