

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2596 OF 2018
ALONGWITH
INTERIM APPLICATION NO. 1783 OF 2019
IN
WRIT PETITION NO. 2596 OF 2018

Mrs. Ranu Bhattacharjee & Anr.

...Petitioners

VERSUS

Mr. Gokul Pradhan Through
Its Constituted Attorney
Mr. Rakesh Singh, And Ors.

...Respondents

Mr. Prashant Malik a/w. Mr.Vijay Chauhan i/b. Ms.Rekha Satpute
for the Petitioners.

Ms.Fatima Lakdawala for the Respondent No.2.

CORAM: RAJESH S. PATIL, J.

DATE : 15 APRIL, 2024

P.C.:-

This writ petition is filed by the licensee, challenging the order passed by the Competent Authority, Konkan Division dated 21 August, 2017 and order dated 17 April, 2014 passed by the Competent Authority, Konkan Division thereby allowing the application under section 24 of the Maharashtra Rent Control Act

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filed by the licensor, and as confirmed by the Additional Commissioner, Konkan Division by its order dated 21 August, 2017.

2. There is no dispute between the parties that the possession of the suit premises has been handed over by the petitioner/licensee on 11 October, 2017.

3. It is the case of the petition that the leave and licence agreement dated 18 July, 2009 was an unregistered documents, therefore the Competent Authority should not have entertained the application filed for eviction, under section 24 of the Maharashtra Rent Control Act.

4. It is the case of the petitioners that they have already filed a suit for specific performance before the Civil Judge, Senior Division, Vasai against Gokul Pradhan, in the year 2014. It is the case of the petitioners that leave to defend should have granted

to the petitioners/licensee as they have entered into the agreement for sale with the original owner of the suit premises and had made partial payment to the original owner. Therefore, the leave should have been granted to defend by which the petitioners could have brought on record all the necessary documents pertaining to the agreement for sale.

5. Ms. Lakdawala, learned counsel appearing for the respondent no.2 submits that the specific performance suit on the alleged documents was filed in the year 2014 before the Civil Judge, Senior Division, Vasai and till date no relief is granted in favour of the present petitioners. She submits that after the licence period was over, the petitioners do not vacate the suit premises and therefore her client had no option but to file a suit for eviction under section 24 of the Maharashtra Rent Control Act. She submits that since there was no relief granted in the specific performance suit, the Competent Authority after considering the documents on record, including the leave and

licence agreement, it has declined the request made by the petitioners/licensee, to 'leave to defend'. She submits that there is no perversity in the order passed by the Competent Authority and the Additional Commissioner of Konkan Division.

6. Mr.Malik, learned counsel for the petitioners has denied the execution of the leave and licence agreement.

7. I have heard learned counsel for both the sides.

8. It is the case of the petitioners/licensee that the suit for eviction under section 24 of the Maharashtra Rent Control Act based on the unregistered leave and licence agreement was not maintainable.

9. This Court in case of *Dhun Dhunji Patel vs. Kersi Minocher Gherda, Deleted (since deceased) & Ors.*, in *Interim Application No. 1111 of 2024 in Writ Petition No. 1487 of 2024* dated 14

February, 2024 has already decided that the eviction suit under section 24 of the Maharashtra Rent Control Act on an unregistered leave and licence agreement is maintainable.

10. As regards the issue about agreement of sale being entered into between the petitioners and the earlier landlord is concerned, a suit for specific performance being Special Suit No.144 of 2014 has been filed by the petitioners before the Civil Judge, Senior Division, Vasai. Admittedly, as of today, there are no reliefs granted in favour of the present petitioners, after a lapse of 10 years. Both the Courts have come to the conclusion that the petitioners have not produced on record any kind of document, to prove that they had become entitled to become owner of the suit premises pursuant to any kind of document entered into between the petitioner and the original owner.

11. The petitioners have themselves come forward and handed over the possession in the execution application on, 10 October,

2017. The possession was taken over by the executing court.

12. As per the respondents, the outstanding amount payable as of today after deducting the security deposit is around Rs.4,66,000/-. Since the petitioners have already handed over the possession, the only decree which remains to be executed would be the outstanding amount payable, as per the impugned orders.

13. I find no infirmity in the orders passed. Writ petition is dismissed. No costs.

14. In sequel, interim application is also disposed of.

[RAJESH S. PATIL, J.]