

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1996 OF 2024

Mohammed Abdul Sayyed

...Petitioner

vs.

Rakesh V. Shetty & Anr.

...Respondents

....

Mr. Aadil Parsurampur a/w Mr. Ameya Khot i/b M/s. Legal Vision, *for the Petitioner.*

Mr. U.B. Nighot a/w Mr. Akhilesh Singh, *for Respondent No.1.*

Mr. Hamid Mulla, AGP for Respondent No.2.

....

CORAM : SANDEEP V. MARNE, J.

DATE : 30 JULY 2024

P.C.:

1 By the present Petition, Petitioner challenges order dated 27 October 2023 passed by the Revisional Authority rejecting the application for condonation of delay in filing revision against the order of the Competent Authority dated 15 November 2022.

2 I have heard Mr. Parsurampur, the learned counsel appearing for the Petitioner, Mr. Nighot, the learned counsel appearing for the Respondent No.1-Licenser and Mr. Hamid Mulla, AGP for Respondent No.2-State.

3 After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that the Competent Authority passed order of eviction of the Petitioner on 15 November 2022 on account of expiry of the tenure of the License Agreement on 28 February 2016. It is Petitioner's contention that there is a separate Memorandum of Understanding (MOU) executed between the parties on 10 March 2010

under which the flat has been sold to the Petitioner at consideration of Rs.21,00,000/- out of which an amount of Rs.13,50,000/- is already paid by Petitioner to the Respondent. It appears that the said MOU is unregistered document and the Petitioner has already instituted suit before the City Civil Court for claiming ownership right in respect of the application premises on the strength of the MOU dated 10 March 2010.

4 The main reason pleaded by Petitioner for condonation of delay in filing Revision Petition is filing of Review Application No.24 of 2022 before the Competent Authority which got rejected on 31 August 2023. The Revision was later filed on 10 October 2023. The Petition does not contain any specific averments about the date on which the Review Petition was filed before the Competent Authority. However date of its rejection is reflected in the order of the Revisional Authority as 31 August 2023. The circumstances in which the Review Petition was filed are also not disclosed in the Petition. It therefore appears that filing of the said Review Petition was only aimed that whiling away time. In my view therefore no sufficient ground was made out before the Revisional Authority for condonation of delay of 329 days in filing the Revision Application. The Revision appears to have been filed only after execution proceedings led to issuance of warrant of possession. Though this Court is not supposed to go into merits of the case considering the limited issue of condonation of delay, it can also be observed that Petitioner has not denied execution of Leave and License Agreement dated 26 March 2015 under which the license is seen to have expired on 28 February 2016. If the Petitioner was already the owner in respect of the application premises on the strength of MOU dated 10 March 2010, it is incomprehensible as to

why he executed Leave and License Agreement with the Licensor on 26 March 2015. If indeed Petitioner has acquired any ownership rights in respect of the application premises on the strength of MOU dated 10 March 2010, he can agitate the same in the suit which is already filed by him. Upon expiry of the license period, Petitioner is otherwise obliged to vacate the application premises.

5 In my view therefore, no case is made out for interference in the order dated 27 October 2023. Allowing Petitioner to prosecute the revision on merits by condoning delay of 329 days would only result in delay in handing over possession of the application premises to the licensor. Despite expiry of the tenure of license on 28 February 2016, it has been more than 8 long years that the Petitioner is continuing to hold on to the possession of the application premises. During the course of hearing of the Petition a query was raised as to whether Petitioner is atleast is willing to pay the normal license fees at the rate of Rs.20,000/- per month from 29 February 2016 to the Respondent-licensor. However inability on the part of the Petitioner is expressed to pay any amount of license fees on the ground that Petitioner is already the owner in respect of the license premises. Considering the overall conspectus of the case, no interference is warranted in the order dated 27 October 2023. Writ Petition is accordingly **rejected**.

6 It is however clarified that nothing observed in the present order shall come in the way of Petitioner prosecuting suit.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

Note: This order is corrected as per the speaking to minutes of order dated 5 August 2024.

Digitally signed by
SUDARSHAN
RAJALINGAM KATKAM
Date: 2024.08.06
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