

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

WRIT PETITION NO.4219 OF 2024

Rajendra Bhagwandas Shah

...Petitioner

vs.

Praveen Ishwarchand Tyagi & Ors.

...Respondents

....

Mr. Shanay Shah with Mr. Dhruve Liladhar a/w M/s. Kush Shah & Co. for the Petitioner.

Mr. Deepak Thakre a/w Mr. Prakash Shah for Respondents.

....

CORAM : SANDEEP V. MARNE, J.

DATE : 5 JULY 2024

P.C. :

1 The challenge in the present Petition is to the order dated 12 December 2023 passed by the Appellate Bench of the Small Causes Court by which Miscellaneous Appeal No.26 of 2023 filed by the Respondents has been allowed and the order dated 22 December 2022 passed by the Small Causes Court has been set aside. The order dated 22 December 2022 was passed on application at Exhibit-10 seeking a direction against Defendants for deposit of amount of arrears of license fees and liquidated damages. The Small Causes Court allowed the application and directed the Defendants to deposit amount of Rs.44,83,196/-. The Appellate Bench has set aside the order dated 22 December 2022.

2 I have heard Mr. Shah, the learned counsel appearing for the Petitioner/Plaintiff and Mr. Thakre, the learned counsel appearing for the Respondents/Defendants.

3 After having considered the submissions canvassed by the learned counsel appearing for the parties, both of them agree that no reasons be recorded considering the nature of arrangement that is being directed in the present order.

4 Mr. Thakre has expressed willingness to deposit an amount of Rs.12,40,000/- representing the amount of license fees payable under the agreement during period from April 2020 till the date of vacation of premises on 28 February 2022, without prejudice to the rights and contentions of the Respondents/Defendants.

5 Mr. Shah would submit that if the said amount of Rs.12,40,000/- is deposited by the Defendants, Plaintiff shall not press deposit of any further amount under the provisions of Order 39, Rule 10 of the Code of Civil Procedure, 1908. He would however pray that liberty be granted to the Plaintiff to apply for withdrawal of the said deposited amount.

6 Accordingly I proceed to pass the following order:

ORDER

i) Order dated 22 December 2022 passed by the Small Causes Court on application at Exhibit-10 as well as order dated 12 December 2023 passed by the Appellate Bench in Miscellaneous Appeal No.26 of 2023 are set aside.

ii) Defendants shall deposit an amount of Rs.12,40,000/- representing the license fees under the Agreement for the period April 2020 to February 2022 before the Small Causes Court within four weeks.

iii) Plaintiff shall be at liberty to file application before the Small Causes Court for withdrawal of the said deposited amount. The said application shall be dealt with by the Small Causes Court on its own merits.

iv) Considering the limited controversy involved in the suit, hearing of LC Suit No.46 of 2022 is expedited and the Court shall endeavour to decide the same within one year.

7 With the above directions, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)

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signed by
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KATKAM
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