

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

WRIT PETITION NO. 10141 OF 2024

Pramod Bharat Sarwale and anr.

....Petitioners

: *Versus* :

Vishlesh Kumar Mourya

....Respondent

Mr. Hrishikesh S. Shinde, for the Petitioners.

CORAM : SANDEEP V. MARNE, J.

Dated : 24 July 2024.

PC. :

1) The challenge in the present petition is to the order dated 21 May 2024 passed by the Additional Divisional Commissioner, Pune Division, Pune refusing to stay the proceedings before the Competent Authority during pendency of the Revision Application.

2) I have heard Mr. Shinde, the learned counsel appearing for the Petitioners and considered the submissions canvassed by him.

3) It appears that the Respondent-Licenser has filed Application No.8/2017 seeking recovery of the application premises from the Petitioner. By now, it has been 7 long years that the said application still continues to remain pending thereby frustrating the very objective behind enactment of Section 24 of the Maharashtra

Rent Control Act, 1999. It is licensor's case that license has expired on 30 November 2016 and if the case of the licensor is to be believed, the Petitioner-licensee is holding on to the licensed premises for the last 8 long years after expiry of the license period. I have no hesitation in holding that the Petitioner-licensee is deliberately delaying decision of Application No.8 of 2017. Petitioner was granted leave to defend on 22 February 2018. He filed his Affidavit of evidence on 24 January 2020 and his cross-examination was completed on 17 March 2022. One and half years later, the Petitioner-licensee came out with a novel idea of seeking witness summons against 10 individuals for the purpose of proving his defence that he has incurred expenditure of Rs.10,00,000/- on repair of the premises. Noting that the Petitioner is deliberately attempting to delay decision of Application No.8 of 2017, the Competent Authority has rejected the said application by order dated 12 April 2024. Instead of proceeding ahead in Application No.8/2017, the Petitioner was advised to file Revision before the Additional Divisional Commissioner challenging the order dated 12 April 2024, in which a prayer is made for stay of proceedings before the Competent Authority. The Revisional Authority has rightly rejected the Interim Application filed by the Petitioner by the impugned order dated 21 May 2024.

4) Mr. Shinde, would rely upon judgment of this Court in **Dinesh Singh Bhim Singh V/s. Vinod Shobhraj Gajaria & Anr.**¹ in support of his contention that liberal approach is required to be adopted by permitting the parties to seek issuance of witness

¹ Writ Petition No.11185 of 2022 decided on 25.1.2023

summons. However, in judgment in *Dinesh Singh Bhim Singh* (supra), the issue was entirely different. The Petitioner therein had failed to file list of witnesses as mandated under Order 26 Rule 1 of the Code of Civil Procedure and on that count, the Trial Court had not permitted him to apply for issuance of witness summons to the persons who were not named in the list of witnesses. In my view, therefore the judgment would have no application to the facts of the present case.

5) As observed above, there can be no doubt to the position that the Petitioner-licensee is deliberately delaying the proceedings before the Competent Authority. The petition is gross abuse of process of law and deserves to be dismissed by imposition of costs. Accordingly, the Writ Petition is dismissed with costs of Rs.25,000/-. Costs shall be paid by the Petitioner to the High Court Legal Services Authority within a period of one week from today and receipt of payment of costs shall be produced before the Competent Authority on the next date of hearing.

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[SANDEEP V. MARNE, J.]