

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

WRIT PETITION NO. 10299 OF 2024

Matin Abdul Sattar Shaikh and Ors.

.. Petitioners

Versus

Haseen Ahmed

.. Respondent

...

Mr. Pritesh K. Bohade, for Petitioners.

...

CORAM : SANDEEP V. MARNE J.

DATE : 25 JULY 2024.

P.C. :-

1) The challenge in the present Petition is to the interim order dated 29 February 2024 passed by the Additional Divisional Commissioner Kokan Division, Mumbai rejecting the prayer for stay of order dated 4 January 2024 passed by the Competent Authority.

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

3) From the order of the Competent Authority it appears that the application premises were given to the Petitioner's father on execution of leave and license agreement dated 29 October 1997 for the tenure 29 October 1997 to 28

September 1998. The license was extended from time to time. The last license agreement is dated 8 December 2001 for the period from 8 December 2001 to 7 November 2002. It is Mr. Bohade contention that Petitioner has filed Special Civil Suit No.2 of 2022 in the Court of Civil Judge Senior Division, Kalyan seeking a declaration of acquisition of ownership in respect of the application premises by virtue of adverse possession.

4) The Competent Authority has passed eviction order on 4 January 2024 on account of expiry of license as well as on death of original licensee on 10 October 2020. The Petitioner has filed Revision Application before the Additional Commissioner Kokan Division under Section 44 of the Maharashtra Rent Control Act, 1999 and prayed for stay of the eviction order dated 4 January 2024. The Revisional Authority has rejected the application for stay by order on 29 February 2024.

5) It appears that though the Petitioner has filed Special Civil Suit No.2 of 2022 on 1 January 2022 seeking declaration of ownership by virtue of adverse possession, no injunction order is secured in the said suit.

6) In that view of the matter, the Competent Authority's eviction order cannot be stayed during pendency of the Revision Application. Petitioners Civil Suit is pending for last more than two and half years and he has been unsuccessful in securing an order of the injunction in the said suit.

7) In that view of the matter, the Revisional Authority has rightly rejected the application for stay. The Petition also suffers from laches in that the stay application was rejected on 29 February 2022 and the present Petition appears to have been filed on 18 July 2024.

8) I therefore do not find any reason to interfere in the order passed by the Revisional Authority.

9) Writ Petition is accordingly rejected.

[SANDEEP V. MARNE J.]

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