

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

WRIT PETITION NO. 13003 OF 2024

Vikas Sambhaji Dhavan And Anr

... **Petitioners**

Versus

Shahin Kader Jugari And Ors

... **Respondents**

Ms. Smita Gaidhani *for the Petitioners.*

Ms. Savita Prabhune, AGP *for the Respondent-State.*

Mr. Vikas Kolekar *for Respondent Nos. 1 to 3.*

CORAM : SANDEEP V. MARNE, J.

DATE : 14 OCTOBER 2024.

P.C. :

1) The Petition is filed challenging Order dated 12 August 2024 passed by the Additional Divisional Commissioner, Kokan Division, Mumbai, dismissing the Revision Application for want of prosecution on account of consistent defaults made by the Petitioners. In the Revision Application, Petitioners had challenged order dated 24 August 2023 passed by the Competent Authority under provisions of Section 24 of the Maharashtra Rent Control Act, 1999 (**MRC Act**) directing their eviction from the licensed premises in addition to direction for payment of damages at the rate of Rs.50,000/- per month from 22 July 2022 till realisation of possession.

2) I have heard Ms. Gaidhani, the learned counsel appearing for Petitioners and Mr. Kolekar, the learned counsel appearing for Respondents.

3) The eviction application was premised on execution of Leave and License Agreement dated 23 April 2022 by Respondent Nos. 2 and 3 in favour of the Petitioners. Under the said agreement, license was granted for the period from 1 April 2022 to 31 December 2024 on payment of license fees of Rs.25,000/- per month. According to the Petitioners, they have never executed the said Leave and License Agreement dated 23 April 2022. It is contended by Petitioners that their mother was in fact the owner in respect of the license premises and that a fictitious agreement for sale is shown to have been executed on 17 April 2018, by the mother in favour of Shahin Kader Jugari showing that the license premises are sold to Shahin Kader Jugari. Based on agreement for sale dated 17 April 2018 said Shahin Kader Jugari is shown to have further sold the license premises to Respondent Nos. 2 and 3 by agreement for sale 30 December 2021. Petitioners claim that both the agreements are fraudulently brought in existence and that the mother had never sold the application premises to Shahin Kader Jugari and that therefore Respondent Nos. 2 and 3 have not acquired any title in respect of the license premises. It is therefore contended that Respondent Nos. 2 and 3 did not have any right to execute license in favour of the Petitioners, who are the real lawful owners as heirs of the mother.

4) In my view, the limited remit of enquiry before the Competent Authority under Section 24 of the MRC Act is to examine whether the license in respect of the premises has expired or not. The Competent Authority cannot conduct enquiry into *inter se* dispute relating to title of the premises. Both the agreements for sale dated 17 April 2018 and 30 December 2021 are registered. Furthermore, in pursuance of the first agreement for sale dated 17 April 2018, it appears that name of Respondent No.1 Shahin Kader Jugari was entered into documents of Mhada. Therefore, it would be too premature at this stage to assume that the license premises were never sold by Petitioners' mother to Shahin Kader Jugari or that Respondent Nos. 2 and 3 have not acquired any title in respect of the suit premises. All the issues can be gone into before the Civil Court. There are *prima facie* documents to infer sale of flat in favour of Respondent Nos. 2 and 3 and there is registered license agreement dated 23 April 2022. It appears that Petitioners have already instituted suit for challenging both the agreements for sale. In the event Petitioners succeed in their suit, they would be in position to seek restoration of possession of the premises from Respondent Nos. 1 to 3. In the limited jurisdiction of Competent Authority under Section 24 of the MRC Act, enquiry into title of the premises is not contemplated. In that view of the matter, Petitioners will have to vacate the possession of the premises and seek appropriate orders before the Civil Court. Therefore, though the Revision Application of Petitioners has been dismissed for default, I do not see any possible defence for the Petitioners for prosecuting the said Revision Application. Restoration of the Revision Application would be a mere formality in absence of any plausible defence for the Petitioners to the execution application. The real remedy for the Petitioners is

before the Civil Court and not before the Competent Authority. I am therefore, not inclined to entertain the present Petition. Writ Petition is accordingly **dismissed**.

5) This Court had directed Petitioners to deposit amount of Rs.25,000/- for a possible costs to be imposed in the event of the Revision Application being restored before the Divisional Commissioner. Since, I am not inclined to restore the said Revision Application, Petitioners would be at liberty to withdraw the amount deposited in this Court with accrued interest.

6) Considering the facts and circumstances of the present case, Petitioners are granted time till 15 December 2024 to vacate the possession of the suit premises.

[SANDEEP V. MARNE, J.]