

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

WRIT PETITION NO. 13890 OF 2024

Sameer Ibrahim Motiwala

... Petitioner

Versus

Bombay And Bandra Bakar Kasai

Jamat Moseques Trust And Ors

... Respondents

Mr. Ajit S. Hodage for the Petitioner.

Mr. Raj Patel a/w Mr. Sayeed Y. Mulani i/b Mulani & Co. for
Respondent No.1.

CORAM : SANDEEP V. MARNE, J.

DATE : 9 OCTOBER 2024.

P.C. :

1) The Petition challenges Order dated 15 July 2024 passed by the Additional Divisional Commissioner, Kokan Division dismissing the Revision Application preferred by the Petitioner against Order dated 3 April 2024 passed by the Competent Authority. The Competent Authority has directed Petitioner to hand over possession of the premises with further direction to pay damages at the rate of Rs.66,000/- per month from 1 October 2022 till handing over vacant possession of the premises.

2) I have heard Mr. Hodage, the learned counsel appearing for Petitioner and Mr. Patel, the learned counsel appearing for Respondents-Licensors.

3) After having considered the submissions canvassed by the learned counsel for the parties, it appears that the registered Leave and License Agreement is executed between the parties on 15 November 2021 granting license for a period of 11 months for the period from 1 November 2021 to 30 September 2022 on payment of monthly license fees of Rs.33,000/-. The Petitioner claims that his signatures on the license agreement are obtained by practicing fraud and that the real intention between the parties was to create protected tenancy in respect of the premises. That the Petitioner was residing with the original tenant and after his death, the Respondents who are landlords, had agreed to transfer the tenancy in the name of the Petitioner on payment of certain amount of consideration. According to Petitioner, part amount of consideration was paid to the Respondents and accordingly tenancy agreement was supposed to be executed for which the Petitioner approached the office of the concerned Sub-Registrar. He has taken a defence that he was not aware about execution of Leave and License Agreement and that parties never intended to execute Leave and License Agreement. Petitioner has accordingly instituted Suit before the City Civil Court seeking cancellation of the Leave and License Agreement dated 15 November 2022. Mr. Hodage after taking instructions from his client, who is personally present before the Court, further states that additionally a declaratory suit is filed before the Small Causes Court seeking declaration of tenancy of the Petitioner in respect of the suit premises.

4) In my view in limited remit of enquiry before the Competent Authority under provisions of Section 24 of the Maharashtra Rent Control Act, 1999 (**MRC Act**) the Competent Authority cannot go into the issue of existence of alleged tenancy rights in favour of the Petitioner. There is no dispute to the position that the Petitioner has signed the License Agreement. What was the real intention between the parties at the time of execution of the license agreement is something which the Competent Authority cannot go into while exercising jurisdiction under Section 24 of the MRC Act. The license agreement was only for period of 30 September 2022 and since the period of license has expired, the Competent Authority has rightly directed eviction of the Petitioner. It is also a matter of fact the Petitioner has paid license fees of Rs.33,000/- per month during the currency of license agreement. Though Mr. Hodage has sought to justify such payment as part payment made towards acquisition of tenancy rights, in my view this issue cannot be gone into in limited enquiry under provisions of Section 24 of the MRC Act.

5) Since signature of the Petitioner on Leave and License Agreement dated 15 November 2021 is not disputed, he cannot be permitted to occupy the license premises till the suits filed by him before the City Civil Court and the Small Causes Court are decided. Petitioner must hand back possession of the suit premises to the licensor and thereafter pursue his litigation before the Small Causes Court and the City Civil Court.

6) Considering the overall conspectus of the case, I do not find any valid reason to interfere in the impugned order. Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]

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