

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16404 OF 2024

Nilesh Ramesh Shingadia

...Petitioner

V/s.

Karshan Bhavan Gami and Ors.

...Respondents

Mr. Rakeshkumar R. Tiwari *for the Petitioner.*

Ms Priyanka B. Chavan, *AGP for Respondent -State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 22 November 2024.

P.C. :

1) Petition challenges order dated 20 September 2024 passed by the Additional Divisional Commissioner, Konkan Division (Revisional Authority) rejecting Petitioner's Revision Application and confirming the eviction order dated 2 April 2024 passed by the Competent Authority.

2) I have heard Mr. Tiwari, the learned counsel appearing for the Petitioner and considered the submissions canvassed by him. It appears that the Leave and License Agreement was executed on 9 November 2020 between

Respondent No.1-Licensor and Ms Bhakti Ritesh Chhaya (Licensee). License was for a period of 33 months from 1 November 2020 to 31 July 2023. Petitioner is a brother of Licensee-Ms Bhakti Ritesh Chhaya. Petitioner claims that Ms Bhakti Ritesh Chhaya vacated possession of the licensed premises in the year 2022 and later Memorandum of Understanding (MoU) was executed between Petitioner and Licensor for purchase of premises for consideration of Rs.1.20 crores. Petitioner claims to have paid earnest money deposit of Rs.11,00,000/- at the time of execution of the MoU and further claimed that he is put in possession of the licensed premises. However, upon being queried as to whether Licensee- Ms Bhakti Ritesh Chhaya executed any document for having vacated the possession of the licensed premises, Mr. Tiwari is unable to produce any such document.

3) Perusal of the MoU does not indicate that the Petitioner was put in possession of the suit premises on the date of execution of the said MoU. Petitioner is a brother of Licensee- Ms Bhakti Ritesh Chhaya and therefore, in absence of any document to suggest that Ms Bhakti Ritesh Chhaya vacated the possession of the licensed premises it is difficult to believe that Licensor would put Petitioner in possession of the suit premises on receipt of amount of Rs.11,00,000/- out of the alleged agreed amount of consideration of Rs.1.20 crores. It is also a matter of fact that the alleged MoU dated 15 September 2023 was executed immediately after end of the licensed period on 31 July 2023. It

is not that the Petitioner is a total stranger. He is the brother of the Licensee-Ms Bhakti Ritesh Chhaya. In that view of the matter his alleged possession together with the Licensee -Ms Bhakti Ritesh Chhaya is linked to the Licensed Agreement.

4) Mr. Tiwari would contend that the Competent Authority has erroneously exercised jurisdiction under provisions of Section 24 of the Maharashtra Rent Control Act, 1999 (**MRC**) against the Petitioner, who is admittedly not the Licensee of the Licenser. He has relied upon judgment of the Apex Court in *Sameer Suresh Gupta V/s. Rahul Kumar Agarwal*¹ and of this Court in *Vishnu Tayappa Kamble V/s. Abdul Rashid Abdul Hakim Ansari*² in support of his contention that for exercise of jurisdiction under Section 24 of the MRC Act, Licenser must discharge the burden of proving that the person against whom proceedings are filed is his licensee. While there could be no dispute to the proposition that unless a person against whom proceedings under Section 24 are filed is a licensee, the Competent Authority cannot exercise jurisdiction under Section 24 of the MRC Act. In the present case, the Eviction Application is not filed by the Licenser against Petitioner alone. The eviction proceedings are filed essentially against the Licensee-Bhakti Ritesh Chhaya. It may be that her brother (Petitioner) is also found to be occupying the licensed premises, on account of which, Licenser thought it prudent to implead even the Petitioner to the Eviction Application.

¹. (2013) 9 SCC 374

². 2005 (4) Mh.L.J. 595

5) If Petitioner claims any independent rights flowing out of the MOU dated 15 September 2023, he will have to adopt necessary civil proceedings for specific performance of the said MoU. Petitioner and her sister-Bhakti Ritesh Chhaya have secured possession of the premises through the license agreement and therefore upon expiry of license both of them must vacate the premises. Licensee cannot be permitted to put her brother in possession of the licensed premises and then brother cannot be permitted to raise a specious claim that he is not the licensee and therefore the Competent Authority cannot exercise jurisdiction over him. I therefore, do not find any valid ground to interfere in the impugned orders passed by the Competent Authority and Revisional Authority.

6) Leaving open remedies to the Petitioner to take out appropriate proceedings for assertion of his right flowing out of MoU, the Petition is **dismissed**.

7) After the order is pronounced, Mr. Tiwari, would pray for stay of the eviction order for a period of eight weeks. Considering the fact that license has long since expired, neither Petitioner nor his sister can be permitted to occupy the premises any longer. Therefore, request for stay of the eviction order is rejected.

[SANDEEP V. MARNE, J.]