

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

**REVIEW PETITION NO. 6 OF 2025
IN
WRIT PETITION NO.5624 OF 2024**

Ram @ Ramesh Shivram Kripalani

Since Deceased Through Lrs

... Petitioners

Versus

Surekha @ Rekha Sharad Mutha & Ors. **... Respondents**

Mr. Nikhil Ghate, *for the Petitioners.*

Ms. Yojana Gandhi, *for the Respondent No.1.*

Ms. Dhruti Kapadia, *AGP for Respondent Nos. 4 &5-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 13 JANUARY 2025.

P.C. :

1) The Petitioners have filed this Petition seeking review of order dated 16 December 2024. Writ Petition No.5624 of 2024 was filed by the Petitioners challenging the order dated 9 February 2024 passed by the Competent Authority rejecting their application for leading further evidence. This Court observed that the real anxiety on the part of the Petitioners in seeking leave to lead additional evidence was on account of death of their father, who originally led evidence, during the course of cross-examination. This Court recorded a statement made on behalf of the Respondent No.1/Licensor for considering the evidence of the original licensee (Petitioner's father) even though his death occurred during the course of conduct of cross-

examination. Since the anxiety sought to be raised by Petitioners about possible discarding of evidence of their father on account of his death during the course of conduct of cross-examination, got redressed on account of statement made on behalf of the Respondent No.1/Licensor, the learned Senior Advocate appearing for the Petitioners made a statement that the Petitioners would not press the application at exhibit 207. This Statement, in my view, made by the learned Senior Advocate was not only correctly made before this Court, but the same was obviously made in accordance with the instructions given to him by the learned Advocate on record, who was instructing the learned Senior Advocate. Now, the present Review Petition is filed through the same advocate on record by contending that making of statement by the learned Senior Advocate was a mistake and that such a statement was made on account of the conduct of Respondent No.1-licensee in making a misleading statement before this Court.

2) This Court does not appreciate the conduct of the learned Advocate on record in casting aspersions on the Senior Advocate for making the statement, which was obviously made as per instructions given by the learned Advocate on Record.

3) Even otherwise, in my view, the said statement was correctly made by the learned Senior Advocate. The real grouse of the Petitioners was about the possibility of evidence of the original licensee (their father) being ignored by the Competent Authority on account of his unfortunate death during the course of his cross-examination. Even though the cross-examination of the original licensee (Petitioner's father) was incomplete at the time of his death,

Respondent No.1/Licensor graciously agreed that his evidence can still be taken into consideration, even though Respondent No.1/Licensor did not have opportunity of completing the cross-examination.

4) Now, Review Petition is filed contending that the real objective behind filing application at Exhibit 207 was to exhibit the documents produced by the original licensee, which are not exhibited by the Competent Authority. Perusal of the evidence of the original licensee would indicate that he has given evidence about the documents in question and it would be for the Competent Authority to consider the issue of exhibiting the said documents. The present Review Petition, in my view, is not only misconceived and baseless, but the same appears aimed at delaying the execution proceedings indefinitely. The application for eviction of the licensee is pending since the year 2011 and it is a matter of concern that such a summary proceedings which ought to have been concluded within few months have remained pending on the file of the Competent Authority for 14 long years. The evidence on behalf of the original licensee is already complete and there is no question of their children leading further evidence before the Competent Authority. The remit of inquiry before the Competent Authority is in extremely narrow compass and the Competent Authority is not supposed to decide rival claims between the parties relating to rights flowing through the alleged Agreement for Sale.

5) As observed above, this Court does not appreciate the conduct on behalf of the Petitioners in seeking to resile from statement made before this Court through a responsible Senior Advocate, who was

duly instructed by the Advocate on record to make the concerned statement on 16 December 2024. In that view of the matter, dismissal of the Review Petition cannot be without consequences.

6) In my view, no ground is made out for review of order dated 16 December 2024. On the contrary, filing of the present Review Petition appears to be a gross abuse of process of law. By keeping the eviction application pending for the last 14 long years, Petitioners are using the licensed premises and it is the complaint of the learned Counsel for Respondent No.1/Licenser that no license fees are being paid for use and occupation of the Bungalow in question.

7) In that view of the matter, Review Petition is dismissed by imposition of costs of Rs. 50,000/-. Costs to be paid by the Petitioners to Respondent No.1 within the period of two weeks. Payment of costs within the stipulated time shall be condition precedent for taking into consideration defense of the Petitioners by the Competent Authority. The Competent Authority shall expedite the eviction proceedings and shall make an endeavour to decide the same on or before 30 April 2025.

8) Review Petition is accordingly dismissed.

[SANDEEP V. MARNE, J.]