

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2049 OF 2025

Sagar Harish Sharma

...Petitioner

Versus

Additional Divisional Commissioner,
Konkan Division, Mumbai & Ors.

...Respondents

BHALCHANDRA
GOPAL
DUSANE

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Mr. Vishal Pattabiraman i/by Mr. Jayesh Mestry, Advocate for
Petitioner.

Mr. Sanjay D. Rayrikar, AGP for Respondent No.1.

Mr. Siddhant Dhavale, a/w Mr. Krish Parashar, Ms. Yashita
Bhardwaj i/by MZM Legal LLP for Respondent Nos. 2 and 3.

CORAM: MADHAV J. JAMDAR, J.

DATED : 25th February 2025

P.C.:

1. Heard Mr. Vishal Pattabiraman, learned Counsel for the
Petitioner and Mr. Siddhant Dhavale, learned Counsel for
Respondent Nos. 2 and 3.

2. By the present Writ Petition, the challenge is to the legality
and validity of the Order dated 19th December 2024 passed by the
Additional Divisional Commissioner, Konkan Division in Revision
Application No.782 of 2024 as well as to the Order dated 15th
January 2025 passed by the Additional Divisional Commissioner,
Konkan Division, Mumbai which is corrigendum to the main Order.

3. By the Order dated 7th August 2024, the Competent Authority, Rent Control Act Court, Konkan Division, Mumbai rejected the Eviction Application No.254 of 2023 filed by the Respondent under Section 24 of the *Maharashtra Rent Control Act, 1999* (“**M.R.C. Act**”). By the impugned Order dated 19th December 2024, said rejection has been set aside and the matter has been remanded back to the Competent Authority to decide the same afresh after giving fair opportunity of hearing to both the sides. Thereafter by Order dated 15th January 2025, corrigendum is issued to said Order dated 19th December 2024 by which the following words in the Clause (3) of the impugned Order dated 19th December 2024 have been deleted:

“After giving a fair opportunity of hearing
to both the sides..”

4. As far as challenge to the impugned Order dated 15th January 2025, it is the submission of learned Counsel for the Petitioner that the said corrigendum has been issued without giving any notice to the Petitioner. As far as impugned Order dated 19th December 2024, it is the submission of learned Counsel for the Petitioner that under Section 43 of the M.R.C. Act the Competent

Authority has no jurisdiction, as the period of agreement has not yet expired.

5. However, learned Counsel for the Respondent Nos. 2 and 3 states that the leave and license agreement is dated 10th September 2022, the license fee is Rs.1,80,000/- for the first year, Rs.1,89,000/- for the second year and Rs.1,98,450/- for the third year. It is the submission of learned Counsel for Respondent Nos. 2 and 3 that after June 2023, nothing has been paid by the Petitioner and the arrears are to the tune of Rs.39,80,250/-. Thus, it is the submission of learned Counsel appearing for the Respondent Nos. 2 and 3 that as the Petitioner is using the suit premises without paying a single rupee with effect from June 2023 i.e. for last about 21 months the Writ Petition be not entertained.

6. The Writ Petition is filed under Article 227 of the Constitution of India which is discretionary and equitable jurisdiction. If this is conduct of the Petitioner, then he is not entitled for any discretionary and equitable relief.

7. However, it is pointed out that the Order dated 15th January 2025 issuing corrigendum has been passed without giving notice to the Petitioner. Accordingly, the said Order dated 15th January 2025 passed by the Additional Divisional Commissioner, Konkan Division, Mumbai issuing corrigendum is quashed and set aside. However, it is clarified that Clause No.3 of operative part of the Order dated 19th December 2024 is to be read with paragraph Nos. 13 and 14 of the Order dated 19th December 2024.

8. Accordingly, the Writ Petition is partly allowed as indicated hereinabove and disposed of as such.

(MADHAV J. JAMDAR, J.)