

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2072 OF 2025

Gopama Raviraj Gowda

...Petitioner

Versus

Deepak Prithviraj Jain & Ors.

...Respondents

Mr. Jaydeep Deo i/b Mr. Anvil S. Kalekar, for the Petitioner.

Mr. Jarin Mukesh Doshi i/b Malvi Ranchoddas, for the Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.
DATED: 18 FEBRUARY 2025

P.C.:

1. This is a very serious matter. *Prima facie* order has been obtained from the Court by playing fraud on the Court. *Prima facie* suit filed against the Defendant No.1 is collusive suit filed by the Plaintiff in collusion with the Defendant Nos.2 and 3.

2. The suit has been filed on 12th November 2021 by the Respondent No.1 (Plaintiff) against Petitioner (Defendant No.1) and Respondent Nos.2 and 3 (Defendant Nos. 2 and 3). It is the contention of Respondent No.1 i.e. Plaintiff that the Petitioner is not staying in the suit premises and she has given the same on leave and license basis to the Respondent Nos.2 and 3 by registered leave and license agreement executed on 22nd September 2021. The suit has been filed on 12th November 2021. The Defendant Nos. 2 and 3 filed written statement on 30th November 2021 i.e. within a period of 18 days from the date of the

filing of the suit and they filed pursis on the same date i.e. 30th November 2021, stating that they want to handover the keys of the suit premises to the Court and accordingly, the keys of the suit premises have been deposited in the Court.

3. It is significant to note that it is the case of the Petitioner that the said leave and license agreement has been got executed from her by playing fraud on her. It is specific case of the Petitioner that the Plaintiff along with Defendant Nos.2 and 3 came in the suit premises and informed her that senior citizens can avail and can take benefit of various schemes for the senior citizens and for that purpose updating of some details are required. It is the case of the Petitioner in the written statement that for that purpose some online forms have been got executed from her for the alleged registration of the Petitioner, in the online registration of such schemes and by making said representation the registered leave and license agreement was got executed from her in favour of the present Respondent Nos.2 and 3.

4. It is significant to note that the Respondent No.2 - Behjad Jamshed Faroodi and Respondent No.3 - Shivkumar Raksharam Dubey, i.e. the Defendant Nos.2 and 3 who are not even related with each other and not members of the same family took the suit premises i.e. residential premises on leave and license basis having only one entry gate. It is the case of the Petitioner that inspite of registration of said

leave and license agreement she continued in possession of the suit premises. As per the case of the Respondent Nos.2 and 3 they have entered into leave and license agreement by paying deposit of Rs.1,00,000/- and licensee fees of Rs.38,000/- per month. In this background of the matter it is required to be noted that within 18 days of the filing of the suit written statement and pursis have been filed without even ensuring that said deposit amount of Rs.1,00,000/- is refunded to them / received by them.

5. Thus, *Prima facie* I am satisfied that the said registered leave and license agreement has been got executed from the Petitioner by the Respondent No.1 who is the landlord by playing fraud and in collusion with the Respondent Nos.2 and 3. It is further significant to note that within a period of 18 days from the filing of the suit the Respondent Nos.2 and 3 have filed written statement stating that they are in exclusive possession of the suit premises being licensees and as they do not want to enter into any controversy or litigation and therefore they are surrendering the keys of the suit premises to the Court and they have vacated the suit premises. Accordingly, the keys of the suit premises have been deposited in the Court.

6. Accordingly, as *Prima facie* I am satisfied that fraud has been played and it is necessary to protect the suit premises till hearing of the Writ Petition, the Court Receiver, High Court, Bombay is appointed with

respect to the premises i.e. Room No.25, 3rd Floor, Ratan Building, Wadia Street, Tardeo Mumbai – 400034. The Court Receiver shall take immediate physical possession of the suit premises by giving notice to the Registrar of the Small Causes Court at Mumbai, as the record shows that the keys of the suit premises are deposited with the Registrar of the Small Causes Court at Mumbai and submit report to this Court by next date. The Petitioner to deposit with the Court Receiver necessary changes.

7. In the facts and circumstances of this case the Registrar, Small Causes Court at Mumbai is directed to immediately seal the record and proceeding of R.A.E. Suit No.1158 of 2021 and send the same to this Court.

8. It is clarified that this order is passed without prejudice to the rights and contentions of the parties and just to protect the suit premises during the pendency of the Writ Petition.

9. Stand over to **4th March 2025 at 2.30 p.m.**

[MADHAV J. JAMDAR, J.]