

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13648 OF 2025

Vaishali Uttamrao Mane

...Petitioner

Versus

Sandeep Vijay Digambar

...Respondent

Through Power of Attorney Holder,

Vijay Madhukar Digambar

Digitally
signed by
ARJUN
VITTHAL
KUDHEKAR
Date:
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Mr. Vaibhav R Gaikwad (Through Video Conferencing) a/w Nishi Sanghvi & Shantanu Chavan, for the Petitioner.

CORAM: MADHAV J. JAMDAR, J.

DATED: 16 OCTOBER 2025

P.C.:

1. Heard Mr. Vaibhav Gaikwad, learned Counsel appearing for the Petitioner.
2. The challenge in this Writ Petition filed under Article 227 of the Constitution of India is to the Order dated 19th September 2025 passed by the Additional Divisional Commissioner, Pune Division, Pune in Revision No.754 of 2024 as also to the Order dated 9th October 2024 passed by the Competent Authority, Rent Control Act Court, Pune Division, Pune in Application No.35 of 2021.
3. By the impugned Order dated 9th October 2024 passed by the Competent Authority, the Petitioner has been directed to handover vacant and peaceful possession of licensed premises being Bungalow

No.46, Kirti Elegant Society, Survey No. 11/B, Plot No. 46, Mahalunge Road, Mahalunge, Tal Haveli, District Pune, admeasuring built up area of 224.16 sq. mtr. (herein after referred to as “**the licensed premises**”) to the Respondent within 30 days from the said Order and to pay damages at the rate of Rs.77,000/- per month (Rs.38,500/- X 2 = Rs.77,000/-) from 1st April 2021 till handing over possession of the licensed premises.

4. The subject Writ Petition has been filed by the Petitioner in her capacity as legal heir and representative of her father - deceased Uttamrao Tukaram Mane i.e. Original Opponent No.2.

5. The factual position as set out in the Application No.35 of 2021 filed by the present Respondent is as follows :-

(a) The Opponent No.1 in said Application No.35 of 2021 is the present Petitioner. That Opponent No.1 is serving as Deputy Commissioner of Police in the CID Department and Opponent No.2 is a retired person and father of the Opponent No.1.

(b) The Respondent and Petitioner executed a registered Leave and License Agreement dated 20th November 2018. The license period was from 1st December 2018 to 30th November 2020 wherein the monthly license fees was agreed to that of Rs.35,000/- (Rupees Thirty Five Thousand) per month for the first 12 months and Rs.38,500/- (Rupees Thirty Eight Thousand) per month for the next 12 months and interest

free refundable security deposit decided as of Rs.1,05,000/- (Rupees One Lakh Five Thousand Only).

(c) For some difficulties of the Petitioner said Leave and License Agreement dated 20th November 2018 was terminated and a new registered Leave and License Agreement dated 27th February 2019 was executed in favour of the Opponent No.2 i.e. father of the present Petitioner for the period of 1st March 2019 to 30th November 2020 and agreed compensation was Rs.38,500/- per month.

(d) Thus, the licensed premises were given on leave and license for the period 1st March 2019 to 30th November 2020.

(e) Thereafter, as the Petitioner and her father have not vacated the subject premises, Application No.35 of 2021 has been filed on 16th July 2021. The Respondent has also raised the contention that the Opponents tried to threaten the Respondent's father by taking advantage of higher posting in Police Department of Opponent No.1 i.e. Petitioner as Deputy Commissioner of Police.

(f) The Opponents filed application seeking leave to defend and the said application has been dismissed by Order dated 8th April 2024 by the Competent Authority by assigning various reasons including as set out in Paragraph No.7, which reads as under :-

“7. After the notice of summons dated 31/08/2021, they should have appeared on 02/09/2021 and they have filed leave to defend application with affidavit within 30 days from

the service of the notice. As per section 43 of MRC Act, 1999 after duly service of summons in the manner laid down in Subsection 3 of section 43 of the MRC Act, 1999, shall not contest the prayer of eviction from the premises, unless within 30 days of service of summons on him as aforesaid, he files an affidavit taking grounds on which he seeks to contest the application for eviction and obtains the leave from the Competent Authority. On perusal of notice envelope (Exh. 7), it is returned with remark "Unclaimed" dated 31/08/2021. It was sent on registered address of the respondents. The summons is duly served on the respondents on 31/08/2021 since then, they have to file their leave to defend within 30 days. The respondents have to file leave to defend till 30/09/2021. But, they have filed application for leave to defend on 29/10/2021, which is beyond the limitation of 30 days. In the circumstances, the Hon'ble Apex Court in the case of Prakash H. Jain Vs Marie Fernandes, 2003 AIR S.C.W. 5378 held that, Section 43(4)(a) and (c) contain inbuilt period of limitation which is a complete and self contained Code and the provision of Limitation Act, 1963 is not attracted to the proceeding which is going on before the Competent Authority."

(Emphasis added)

Thus, what the Competent Authority has *inter alia* held that the application of leave to defend has been filed beyond limitation and therefore not maintainable.

(g) The Competent Authority has passed the following operative final Order on 9th October 2024 in said Application No.35 of 2021 :-

"ORDER

1. The application is partly allowed.
2. The respondents are hereby directed to handover vacant and peaceful possession of licensed premises Bunglow No. 46, admeasuring built up area of 224.16 Sq. Mtr, Kirti Elegant Society, Survey No. 11/B, Plot No. 46, Mahalunge

Road, Mahalunge, Tal Haveli, District Pune to the applicant within 30 days from the date of this order.

3. The respondents are directed to pay damages to applicant at the rate of Rs.77,000/- Per month (38,500 x 2 = 77,000/-) from 01/04/2021 to till Handover the vacant possession of licensed premises after deduction of security deposit of Rs. 1,05,000/- from it.”

(Emphasis added)

(h) It appears that in the meanwhile the Opponent No.2 i.e. father of the present Petitioner has passed away and therefore the said Order dated 9th October 2024 is challenged before the Revisional Authority by the Petitioner as legal heir and representative of the Opponent No.2 – father. The Revisional Authority has dismissed the Revision by the impugned Order dated 19th September 2025.

6. At the outset, it is required to be noted that Section 24 of the *Maharashtra Rent Control Act, 1999* (“**Rent Act**”) clearly specifies that an agreement of license in writing shall be conclusive evidence of the facts stated therein. The said provision namely Explanation (b) to Section 24 of the Rent Act has been interpreted by this Court and it has been held that no other evidence which is contrary to the terms and conditions of agreement of license in writing can be allowed to be led, as agreement of license in writing shall be conclusive evidence of the facts stated therein.

7. This Court in the case of *Alpana Sanjay Kolhatkar v. Vijay Kumar*

*Amrut Gone*¹, after analysing the relevant provision and relevant decisions, has held as follows :-

“16. Thus, the Scheme of Maharashtra Rent Act regarding Special provisions for recovery of possession in case of landlord entitled to recover possession of premises given on leave and licence for residence on expiry of the period of licence as provided under Section 24 of the Maharashtra Rent Act read with provisions of Chapter VIII concerning summary disposal of certain Applications is as follows:

(i) Explanation (b) to section 13-A(2) of the Bombay Rent Act i.e. Explanation (b) to Section 24 of the Maharashtra Rent Act prescribes a special rule of evidence. It provides that an agreement of licence in writing shall be conclusive evidence of the facts stated therein. In view of this special rule of evidence, this Court has held that it is not permissible for the Court to go behind the document to find out the real intention of the parties. The agreement is conclusive evidence that the transaction is of leave and licence. In other words, it has been held that the words "conclusive evidence" of the facts stated in the Leave and Licence Agreement have the effect of shutting out any other evidence on the subject which might be adduced before the Court. No evidence can be adduced to contradict it. Conclusive evidence means an absolute evidence of a fact for all purposes for which it is so made evidence. In view of this special rule of evidence prescribed under the Act Court cannot go beyond the document to find out the intention of the parties, the circumstances of the case, the nature of possession etc.

(ii) Once it is provided by the legislature that an agreement of licence in writing shall be conclusive evidence of the facts stated therein, it prohibits from leading any other evidence which may affect the conclusiveness of that evidence. Supreme Court in Smt. Somawanti case (supra) held that once the law says that certain evidence is conclusive it shuts out any other evidence which would detract from the conclusiveness of that evidence. Not only that when a certain

1 Civil Writ Petition No.11046 of 2019 (Decided on 7th August 2023)

evidence is made conclusive evidence, it prohibits any other evidence to be led which may detract from the conclusiveness of that evidence, but also the Court has no option to hold the existence of the fact otherwise when such evidence is made conclusive.

*(iii) Once an execution of the agreement of leave and licence is not disputed before the Competent Authority in an application under section 13-A(2) of the Bombay Rent Act/ Section 24 of the Maharashtra Rent Act based on such leave and licence agreement, it is conclusive evidence of the facts stated therein and no other evidence can be led inconsistent with the said facts by either of the parties and is conclusive between the parties of the facts stated therein. **The Competent Authority has no option but to hold that the facts stated therein do exist.***

(iv) Harmonious reading of section 55(1) and (2) along with the said Clause (b) in the Explanation to section 24 of the said Act would reveal that though it is mandatory for the landlord to get the agreement of leave and license recorded in writing and registered under the Registration Act, 1908, failure in that regard would warrant consequences as stipulated under section 55 of the said Act, however, once the matter reaches the stage of evidence, and if there is an agreement in writing, though not registered, even then the facts stated in such agreement could be deemed to be conclusively established on the basis of such written agreement itself and there would be no other evidence admissible in that regard. In other words, though, in terms of subsection (2) of section 55 of the said Act, there will be presumptive value to the contentions of the licensee in respect of the terms and conditions of the agreement is in writing and even though it is not registered, the same, as regards the facts stated therein would be deemed to have been proved conclusively on production of the agreement itself, and in which case, any presumption arising in relation to the terms and conditions of the license contrary to the facts stated in such agreement would stand rebutted.”

8. In this particular case, the registered leave and license agreement specifically provides that the period of the leave and license agreement

is from 1st March 2019 to 30th November 2020. The agreed compensation was Rs.38,500/- per month. Thus, no other evidence could have been adduced contradicting the terms of the leave and license agreement.

9. The factual position on record shows that even after a period of 5 years after the expiry of period of leave and licence, the Petitioner is occupying the subject premises. The Competent Authority has directed payment at the rate of Rs.77,000/- i.e. double the rate of agreed compensation i.e. Rs.38,500/-, which direction is in consonance with provision of Section 24(2) of the Rent Act.

10. It is required to be noted that the stringent provisions are made by amending the *Bombay Rents, Hotel and Lodging House Rates Control Act, 1947* and thereafter those provisions also incorporated in the *Maharashtra Rent Control Act, 1999* being Section 24 and by incorporating Summary Disposal of Certain Applications in Chapter VIII of the Rent Act. Chapter VIII provides for summary disposal of certain applications and the same is applicable to a landlord who has created a service tenancy in respect of his premises or a part thereof in favour of his employee under Section 22, a member of the armed forces of the Union or a scientist or a Government servant or a successor-in-interest, referred to in Section 23 and a person who has given premises on licence for residence or a successor-in-interest referred to in Section 24.

Thus, it is clear that the object of the Act is that the premises should be vacated by the licensee on the expiry of the period of leave and license. Admittedly, the said period is over on 30th November 2020.

11. Accordingly, no interference is warranted under the jurisdiction of this Court under Article 227 of the Constitution of India.

12. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]