



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.446/2025

Mangala wd/o Bhaskar Mahajan thr. Power of Attorney Holder, Sharad Mahadeo
Mahajan .Vs. UCO Bank, thr. Its Branch Manager, Sitabuldi Branch, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. Deshpande with Mr. Rohit Borwankar, Advocates for petitioner.
Mr. M. V. Acharya, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.

DATE : JUNE 23, 2025

Heard.

2. The landlord had filed application under Order XII Rule 6 of the Civil Procedure Code, 1908 (hereinafter referred to as the, "Code") for passing judgment on admission.

3. According to the petitioner – plaintiff, the lease executed between the parties was registered on 30.10.2013 with a recital that the lease shall be for five years with effect from 01.04.2013 to 31.03.2018. The relevant clause of the lease further provides that the lease could be renewed for further five years but without renewal clause. The relevant clauses 1 and 4 (f) of the lease reads thus:

"01. In consideration of the rent hereby reserved and the covenant terms and conditions herein contained and on the part of the Lessee to be paid observed and performed the Lessor doth hereby grant and demise unto the Lessee ALL THAT Ground Floor Premises of the building bearing House No. 94 in Mahajan Layout, Sitabuldi, Nagpur 440 012 more particularly described in the schedule hereunder written consisting of total constructed area of 2852 sft and a Mezzanine floor of 1425 sft with space for cycle stand/Bank Parking shown by red mark in the map attached to this Deed and hereinafter for the sake of brevity referred to as "the demised premises" TOGETHER WITH all rights, easements and appurtenances belonging thereto the

HOLD the demised premises unto the Lessee for the term of 05 Years from 1st day of April 2013 YIELDING AND PAYING therefore unto the Lessor during the said term monthly and every month the monthly rent of Rs.91,251/- (at 25.50 per Sq. ft. for the ground floor carpet area of 2852 sft (265 Sq.Mtrs.) and Rs.13.00 per Sq. ft. for the Mezzanine floor of 1425 Sq. ft. (132 Sq.Mtrs.). aggregating to Rs. 91,251/- from 01.04.2013 to 31.03.2018 exclusive of all rates and taxes by equal monthly payments on or before the 10th day of each and every month for the month immediately preceding.

2 & 3

4 PROVIDED always and it is Hereby Expressly Agreed and Declared by and between the parties hereto as follows:

a) to e)

f) IF the Lessee shall be desirous of taking a new lease of the demised premises after the expiration of the term hereby granted and of such its desire shall give to the Lessor or leave at his usual or last known place or residence in Nagpur, a notice in writing not less than three month before the expiration of the terms hereby granted to the Lessee, the Lessor shall at the cost of Lessee grant to the Lessee a new lease of the demised premises for a further period of Five Years to commence from and after the expiration of the term hereby granted subject to the same terms covenants and conditions as are herein contained excepting the monthly rent which shall be enhanced by 20% of the initial rent in the renewed period of lease without this present clause for renewal."

4. As could be seen, the parties agreed to lease the premises for a term of five years from 01.04.2013. Clause 4(f) of the lease provides that if the lessee is desirous of taking a new lease of the demised premises after expiration of the term, he will issue notice in writing of its desire to renew the lease and upon such request the lease could be renewed for further five years but without clause of renewal.

5. Counsel for petitioner submits and rightly so that the expression, "Without the clause of renewal", would indicate that the

parties agreed for renewal of lease only with one additional term of five years. In that sense, the lease period, as agreed, was for 10 years, subject to what has been provided for in clause 4(f).

6. The petitioner filed suit for eviction in the year 2018 on the ground that the respondent-lessee failed to issue notice as required under clause 4(f) for extension of lease and on other grounds as well. The suit is still pending. The respondent on 10.01.2023, wrote a letter to the petitioner stating therein that the lease for the premises is due for renewal from 01.04.2023 and accordingly requested to submit offer for renewal for further period of 5 + 5 years i.e. 10 years. The reminder letter was issued by respondent to the petitioner on 10.02.2023.

7. In the light of the subsequent development where the respondent made a request for renewal w.e.f 01.04.2023, the petitioner filed application before the Trial Court under Order XII Rule 6 of the Code stating therein that the respondent has itself admitted that the lease has expired on 31.03.2023 and, therefore, the decree of eviction must follow.

8. Counsel for petitioner has, in context with the aforesaid facts, invited my attention to paragraphs 2 to 4 of the plaint. The petitioner-plaintiff has averred that the lease between parties was executed on 31.10.2013, which was for a period of five years from 01.04.2023 to 31.03.2018. Clause 4 (f) of lease deed was then referred to point out that for renewal of lease, the respondent – tenant was under obligation to issue notice in writing.

9. In the written statement, the respondent, while answering the pleadings in paragraphs 2 to 4 averred that the contents of these paragraphs are not in dispute. Thus whatever has been stated in paragraphs 2 to 4 of the plaint has been admitted by the respondent meaning thereby that the respondent admitted that initially the lease

period was five years w.e.f. 01.04.2013 to 31.03.2018 and that respondent admitted that lease could be renewed for one more term without clause of renewal.

10. The respondent's notice dated 10.01.2023 for further renewal will have to be examined and understood in the light of above. The respondent has, in clear words, stated that lease is due for renewal from 01.04.2023, meaning thereby that the lease stood terminated on 31.03.2023. Communication dated 10.03.2023 is completely silent as to on what basis, the request for renewal has been made, in the sense, the respondent has not referred to any clause of the lease deed by which the lease could be renewed after 31.03.2023. That being so and since the parties agreed that the lease could be renewed only once and since the extended period under lease expired on 31.03.2023, the petitioner moved an application under Order XII Rule 3 of the Code.

11. Counsel for the petitioner has invited my attention to the judgment passed by Coordinate Bench of this Court in **Concrete Developers, Nagpur .Vs. Central Bank of India, Mumbai and anr.; 2022(6) Mh.L.J. 137**, where in identical situation, the Court rendered following finding.

“20. This Court is of the opinion that in the face of admissions in the pleadings and the documents on record on behalf of the respondents, decree of possession must follow immediately upon expiry of the period of lease stretched to the maximum i.e. up to 31-7-2020. It cannot lie in the mouth of the respondents to claim that the matter must continue further before the Small Causes Court till the trial proceedings terminate, for the reason that in view of the aforesaid admissions, nothing further remains in dispute and there is no question of the parties leading any further evidence as regards the said issue about expiry of the lease on 31-7-2020.”

12. Thus, the Court held that in view of the admissions in the pleadings and the documents placed on record by respondent therein,

the decree of possession must follow immediately upon expiry of period of lease stretched to the maximum.

13. In the said case, the lease was registered on 22.07.2005. The same was executed for a period of five years from 01.08.2005 to 31.07.2010. The lease deed provided for renewal clause for further two periods of five years each. Thus, the outer limit of the lease was 31.07.2020. The suit was filed in January, 2015. The argument was that in written statement, the tenant admitted that lease was for five years with two extensions. The further admission was in the form of letter where the respondent therein conceded that the date of expiry of lease upon subsequent two renewals of five years was 31.07.2020. On the basis of said letter/communication, the petitioner therein moved an application under Order XII Rule 6 of the Code. The Court below rejected the application and accordingly, the petitioner moved this Court and while allowing the petition, the aforesaid findings were rendered.

14. The facts in the present case are identical. In the present case, by way of written statement, the tenant has admitted that the lease was initially for the period of five years with extension of one term of five years. The parties, thus, agreed that the lease would stand terminated on 31.03.2023. In addition, the letter issued by respondent, stating therein that the lease is due for renewal from 01.04.2023 is yet another admission that lease stood terminated on 31.03.2023.

15. That being so, there was no necessity for the petitioner to lead further evidence on the point that the lease has expired on 31.03.2023 and, therefore, the decree for eviction should follow.

16. As such, the counsel for the respondent has referred to judgment of Supreme Court in the case of *Himani Alloys Ltd. .Vs. Tata Steel Ltd.; (2011) 15 SCC 273*, to contend that unless admission

is clear and unambiguous, discretion of the Court should not be exercised to deny the valuable right of defendant to contest the claim.

17. Thus, what is required is a clear and unambiguous admission. In the present case, if written statement is read in the light of clauses of lease deed which stood admitted in written statement, along with the letter for further renewal of lease w.e.f. 01.04.2023, it is a clear admission that the lease would expire on 31.03.2023, even if the extended period is considered.

18. That being so and the admission being clear and unambiguous, recourse to Order XII Rule 6 of the Code was fully justified. The Court below ought to have acted in terms of said provision. This appears to me a case where the Court failed to exercise its jurisdiction. There is no reason why should the parties, particularly petitioner be put to exercise of leading further evidence when admission is self sufficient.

19. The writ petition is accordingly allowed. Impugned order dated 07.12.2024 passed by 2nd Additional Small Causes Court, Nagpur below Exh.-16 in Regular Civil Suit No.336/2018 is quashed and set aside.

Application Exh.-16 in Regular Civil Suit No.336/2018 is allowed.

The respondent shall vacate the premises by handing over the possession to the petitioner within three months from today.

Decree be drawn up accordingly. No order as to costs.

(Anil L. Pansare, J.)