



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14441 OF 2025**

Krishnabai Haresh Kewlany

...Petitioner

V/s.

Hemant Amarchand Chhadva and Ors.

...Respondents

Mr. Vaibhav Ugle *with Mr. Aditya Shinde and Mr. Prashant Mahajan for the Petitioner.*

CORAM: SANDEEP V. MARNE, J.

DATED: 9 APRIL 2026.

P.C.:

1) At the very outset, it must be observed that the present Petition is gross abuse of process of law. The Petitioner is the licensee in respect of the premises for which a registered Leave and License Agreement dated 9 September 2019 was executed by her with Respondent No.1/Plaintiff. The License was for 36 months commencing from 17 September 2019 to 16 September 2022 at license fee of Rs.90,000/- per month. The Petitioner was to operate her business of a Beauty Parlour/ Saloon in the licensed premises. Since the Petitioner failed to deliver possession of the suit premises, License Eviction and Compensation Suit No. 42 of 2022 was filed by the Plaintiff in the court of Small Causes, Mumbai. It appears that the Petitioner also failed to pay the agreed amount of license fees and various cheques issued by her towards license fees were dishonoured. During pendency of the Suit, the Small Causes

Court passed order on 7 September 2022 directing the Petitioner to pay to the Plaintiff outstanding license fees of Rs.33,00,900/-. The Petitioner did not obey the order and her defence was struck off. The Suit came to be decreed by judgment and order dated 14 February 2024.

2) The decree was put into execution and a possession warrant was issued. The Petitioner filed Writ Petition No.505 of 2025 challenging the order of warrant of possession. The Writ Petition was disposed of by granting liberty to the Petitioner to take out appropriate proceedings before the Executing Court. The Petitioner thereafter filed Application at Exhibit-31 in the execution proceedings under Section 151 of the Code of Civil Procedure, 1908 for recall and set aside of the judgment and decree dated 14 February 2024. The Petitioner now contended in her Application at Exhibit-31 that the Plaintiff is not the owner of the suit premises. Curiously, this defence was not taken in the written statement. Mr. Ugle, the learned counsel appearing for the Petitioner admits that this defence was not raised in Writ Petition No.505 of 2025.

3) Apart from the fact that the defence of absence of ownership of Plaintiff is raised to somehow frustrate the decree and the same is raised belatedly for the first time, the defence is otherwise untenable. Having executed the registered Leave and License Agreement with the Plaintiff and having secured entry into the licensed premises on the strength of such license, *estoppel* under Section 116 of the Indian Evidence Act would clearly apply. The Petitioner cannot question the title of licensor after admitting the same while executing the Leave and License

Agreement. It is submitted that the Petitioner has vacated the licensed premises on 7 December 2024.

4) The Trial Court has rightly rejected the Application at Exhibit-31. The Petitioner occupied the licensed premises free of costs and is now trying every trick to delay execution of the decree. Filing of the present Petition is gross abuse of process of law.

5) Writ Petition is accordingly **dismissed**.

[SANDEEP V. MARNE, J.]