

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5687 OF 2026

Yashi Kumari Jadeja

...Petitioner

V/s.

Uttam Parmar

...Respondent

Mr. Manoj M. Gadkari, *for the Petitioner.*

Mr. Faiyaz Khan *with Mr. Kunal Haresh Punjabi i/b. Mr. Akhtar J. Khan,*
for the Respondent.

CORAM: SANDEEP V. MARNE, J.

DATED: 4 May 2026.

P.C.:

1) By this petition, the Petitioner challenges the order dated 30 December 2024 passed by the Competent Authority, Rent Control Act Court, Pune passed under Section 214 of the Maharashtra Rent Control Act, 1999 by which the Petitioner is directed to handover possession of the licensed premises to the Respondent.

2) I have heard Mr. Gadkari, the learned counsel appearing for the Petitioner and Mr. Khan, the learned counsel appearing for the Respondent.

3) The petition was heard on 27 April 2026 and at the conclusion of the hearing, this Court was about to pass an order dismissing the petition. However, at that stage, instead of inviting an

order of dismissal of the petition, the learned counsel who appeared for the Petitioner on 27 April 2026 made an earnest request to the Court that if reasonable time is granted to vacate the premises, the Petitioner would not press the petition. A time of 6 months was sought for vacating the possession of the premises. Accordingly, on 27 April 2026 following order was passed :

1. The hearing of the Petition is complete. At the end of the hearing, the learned counsel appearing for the Petitioner submits that if reasonable time is granted for the Petitioner to vacate the premises, she would not press the present Petition. The learned counsel submits that time of six months be granted for the Petitioner to vacate the premises. He submits that Petitioner shall file an Undertaking in this Court on the next date of hearing for vacating the premises within a period of six months and for not creating any third party rights in the suit premises before vacating the same.

2. List the Petition on 4 May 2026 for the purpose of filing Undertaking.

4) Today, when the petition is called out and when a query is put as to whether Petitioner has filed an undertaking envisaged in the order dated 27 April 2026, it has transpired that Petitioner has discharged the advocate who appeared for her on 27 April 2026 and has engaged a new Advocate who now submits that the Petitioner cannot vacate possession of the premises. Mr. Gadkari, has tendered an Affidavit executed on 2 May 2020 giving justifications for not vacating the possession of the licensed premises.

5) This Court does not appreciate the conduct of the Petitioner who prevented this Court from passing order in the petition on 27 April 2026 by giving an assurance of filing of undertaking for vacating the licensed premises within 6 months. Today, a detailed hearing was

required to be conducted in the petition. This has led to wastage of valuable judicial time in hearing the petition on two different occasions.

6) It is seen that the order dated 30 December 2024 was subjected to revision under Section 44 of the Maharashtra Rent Control Act. However, the Revision was not filed within time and there was delay of 347 days in filing the Revision. The application for condonation of delay in filing the Revision is rejected by order dated 20 April 2026. Petitioner has however not challenged the order dated 20 April 2026 and has selectively challenged only the order of the Competent Authority dated 30 December 2024. The petition is thus defective and deserves to be dismissed on this count alone.

7) Even if failure to challenge Revisional Authority's order dated 20 April 2026 is to be momentarily ignored, it is seen that there is otherwise no merit in the present petition. The sheet anchor of the Petitioner is the order dated 25 January 2016 passed by the 14th Joint Civil Judge, Junior Division, Pune on application at Exhibit-5 in R.C.S. No. 433 of 2015 by which the Respondents/licensors are restrained from disturbing peaceful possession of the Petitioners in respect of the licensed premises till disposal of the suit. The order passed by the Trial Court on 25 January 2016 is confirmed by the Appellate Court by dismissing Misc. Civil Appeal No. 302/2016. It is therefore contended by the Petitioner that since she enjoys protection from disturbance to the possession of the licensed premises in pending Regular Civil Suit No. 433/2015, the Competent Authority could not have exercised jurisdiction under Section 24 of the Maharashtra Rent Control Act and directed her eviction.

8) I have gone through the orders dated 25 January 2016 and 7 February 2017 passed by the Trial and the Appellate Courts respectively. The Appellate Court has emphatically recorded the following findings :

[12] **On going through the facts and circumstances of the case, it is crystal clear that the plaintiffs are in occupation of the suit property as per the terms and conditions of Leave & License Agreement since 2001.** There is dispute between the parties whether the plaintiffs were permitted to occupy, use and enjoy the suit property gratuitously or for a particular consideration. Both the parties have come with a case adverse to each other on this point of gratuitous license. To decide this real question in controversy between the parties, it is necessary to have full-fledged trial of the matter. Unless the parties to the litigation have been given opportunity to lead their evidence and to contest the matter on merits, it is not possible for the Court to record finding on the said point of gratuitous license. Therefore, at this juncture, it is not possible to record finding whether the plaintiffs are occupying the suit property gratuitously or not. However, facts remain that the plaintiffs are in settled possession of the suit property since long.

(emphasis added)

9) Thus, Appellate Court has recorded a prima-facie finding that the Petitioner is in possession of the licensed premises as per the terms and conditions of the Leave & License Agreement since 2001. Both the Trial and Appellate Courts however have granted interim protection in favour of the Petitioner by observing that she cannot be dispossessed without following due process of law. This is clear from following findings recorded in para-10 of the order passed by the Trial Court :

10] It is settled law that even trespasser cannot be dispossessed without following due process of law. In present suit, it is admitted position that the suit property is in peaceful possession of plaintiffs since 2001-2002. Therefore, the prima-facie and balance of convenience is in favour of plaintiffs and they will suffer irreparable loss, if they are dispossessed at this stage. On the other hand defendants stays at London. They also failed to show why they required suit premises. Therefore, no harm will be caused to them, if the application is allowed.

(emphasis added)

10) Similarly, the Appellate Court has held in para-13 of its order as under :

Only because the defendants have allegedly determined the License Agreement, **it does not mean that they are entitled to evict the plaintiffs without following due process of law.** The defendants have themselves admitted that the plaintiffs occupied the suit property as per License Agreement. Therefore, it cannot be said that the plaintiffs are occupying the suit property as caretaker or agent of the defendants.

(emphasis added)

11) The licensor/Respondents have followed the due process of law by filing eviction application under Section 24 of the Maharashtra Rent Control Act. As observed above, even the Appellate Court has recorded a finding of occupation of the premises by the Petitioner on the strength of Leave & License Agreement. If any doubt remained, the same is resolved by specific admission given by the Petitioner in her cross-examination conducted in the pending suit. The order of the Competent Authority refers to the said admission by recording the following findings :

On perusal of the cross examinations of the respondent Yashi Kumar Jadega, she has admitted in her cross examination that she is occupying the suit premises by way of license agreement and she required to pay all the charges of property to the society as per leave and license agreement.

12) Thus, occupation of the premises on the strength of Leave & License Agreement is an admitted fact. Existence of Leave & License Agreement is a jurisdictional fact which confers jurisdiction on Competent Authority under Section 24 of the Maharashtra Rent Control Act. The period of license has expired. In that view of the matter, the Competent Authority is justified in ordering eviction of the Petitioner. Passing of order of temporary injunction by the Trial Court, as upheld by the Appellate Court, does not come in the way of Competent Authority exercising jurisdiction under Section 24 of the Maharashtra Rent Control

Act. Both the orders of the Trial and Appellate Courts are premised essentially on impermissibility to dispossess the Petitioner without following due process of law. Now the process of law is followed by the Respondents/licensors. Therefore, the orders passed by the Trial and Appellate Courts cannot be read to mean an embargo on the Respondents/licensors from following the due process of law for dispossession of the Petitioner.

13) Considering the above position, in my view, there is no warrant for interference in the impugned order of eviction passed by the Competent Authority on 30 December 2024. The petition is otherwise defective as the same does not challenge the order passed by the Revisional Authority dated 20 April 2026. The petition is thus gross abuse of process of law. As observed above, the Petitioner has also wasted valuable judicial time by making this Court hear this petition on two occasions and by preventing it from dismissing the same on 27 April 2026 by assuring the Court that she would file an undertaking for vacation of possession of the licensed premises within 6 months. Petitioner has conveniently resiled from the statement made on 27 April 2026 and has taken chances of arguing the petition on merits all over again. Therefore, while dismissing the petition, this Court is inclined to impose exemplary costs on the Petitioner. The Writ Petition is accordingly **dismissed** with directions to the Petitioner to pay costs of Rs.1,00,000/- to the Respondents.

14) If costs are not paid within a period of 4 weeks, the same shall be recovered from the Petitioner as arrears of land revenue.

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[SANDEEP V. MARNE, J.]