

Presented on :	17 /09/2019
Registered on :	17 /09/2019
Decided On :	29/04/2025
Duration :	005Y07M12D

**IN THE COURT OF COMPETENT AUTHORITY RENT**  
**CONTROL ACT, KONKAN DIVISION, AT-MUMBAI,**  
**(Presided over by V.K.Puri)**

**EVICITION APP. NO 153 OF 2019**

**Exh.44**

**Deepsingh V. Khalsa**

Age: 57 Years, Occ: Business

R/at- BK No. 1267/1,

OT Section, Ulhasnagar-421004.

.....Applicant

**VERSUS**

**Gladys Michael (Dead)**

Age: Major ,Occ: Nil

**Her Legal Heirs**

**1. Anita Michael Lewis**

Age: Major ,Occ: Nil

**2. Smitha Lewis**

Age: Major ,Occ: Nil

**3. Arthur Joel Lewis**

Age: Major ,Occ: Nil

**4. Kevin Jason Lewis**

Age: Major ,Occ: Nil

R/at- Flat No.4, Building No.8A,

Chembur Navjivan Co-operative Housing

Society Limited, 34, Ramkrishna Chemburkar

Marg, Chembur, Mumbai-400074.

.....Respondent

**Application Under Section 24 of the Maharashtra Rent Control**  
**Act, 1999**

**Appearance**

.....

Adv. Poonam V. Makhijani

Adv. Preshita B. Ohol

Adv. Monisha Sukhramani

.....Advocates for the applicant.



Adv. Yogesh B. Dandekar

Adv. Harsita Jangid

.....Advocates for the respondent.

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**J U D G M E N T**(Delivered on 29<sup>th</sup> of April, 2025)

This is an application filed under Section 24 of Maharashtra rent control Act 1999 (Herein after referred as MRC Act) for seeking Eviction and damages.

2. As per the submission of the applicant, he is a legal heir of original licensor namely Adan Khalsa. He submitted that he has succeeded license premises by way of succession. He further stated that during her lifetime she has given application premises **"Flat No.4, Building No. 8-A, Chembur Navjivan CHS, 34 Ramkrishna Chemburkar Marg, Mahatma Gandhi Nagar , Chembur , Mumbai-400074."**( Herein after record as license premises) to one Mr. L. V. Michael. Thus the Adan Khalsa is the original licensor and Mr. L.V. Michael was original licensee. The agreement between the original licensor and licensee was executed on 01.09.1966 for the period of 11 months commencing from 01.09.1966. Then said leave and license agreement was extended by executing fresh leave and license agreement for 11 months intervals. Thus they kept extending the agreements. The last leave and license agreement was executed on 06.06.1969 for the period of 11 months commencing on 06.06.1969. The monthly license fees was 300/-. Then said agreement was extended by executing Kabuliat nama on same terms. As such the period was extended till 31.12.1973. The last Kabuliat nama was signed on 01.02.1973. It was executed for further 11 months and it was agreed in the kabuliat nama that it is



executed for temporary purpose on payment of monthly compensation. The monthly license fees was Rs. 300/- and Rs. 900/- was security deposit.

3. Said grant was expired after 11 months i.e. on 31.12.1973. In the agreement itself the original licensee has agreed that he will not claim any tenancy. Then due to relation between the original licensor and licensee they have not executed any further document but continue to act upon last Kabuliat nama.

4. On 04.10.1993 the original licensor died. Then present applicant come to know about the application premises. He has started to pursue the possession of the original licensee. He did not pay heed and kept enjoying license premises. Then on 16.06.2015 original licensee died leaving behind his wife Mrs. Gladys Michael and children. The applicant again persuaded the requests to the legal heirs of the original licensee. Then by obtaining legal heir certificate he got transferred the membership of the housing society and share certificate. Thereafter he filed present application against the respondent who is wife of original licensee.

5. The respondent filed her leave to defend application on affidavit. She admitted that she is wife of original licensee and she is still residing in license premises. After filing said application she died and her legal heirs are brought on record. They appeared and adopted earlier leave to defend application and also filed additional affidavit stating their case. They all are claiming adverse possession. The leave to defend application is came to be rejected by this authority. Thereafter, the matter is heard on judgment and taken up for decision.



6. After going through entire documents and claim, following points are arise for my consideration. I have recorded my findings there on, which follows my reasoning.

Sr.No.	Points	Findings
1	Whether the applicants are landlord of application premises?	Yes
2	Is there any leave and license agreement in respect of application premises?	Yes
3.	Does the period of Leave and License is expired by efflux of time?	Yes
4.	Does applicant is entitled for relief as prayed?	Yes
5.	What order?	Application is allowed.

### **REASONINGS**

#### **AS TO POINTS 1, 2 AND 3 -**

7. The execution of the leave and license agreement and the Kabuliat nama is not disputed in this case. The respondents claiming adverse possession of the license premises. Admittedly the respondents are entered in to license premises on the basis of leave and license agreement. The ownership of Original licensor is not disputed. The heir ship certificate Exh. A & B with Exh. 14 (Page 16 to 28) shows that the applicant is the legal heir of the deceased original licensor. Therefore in view of section 24 explanation (a) of the MRC Act the applicant is the successor in interest of license



premises. Therefore the applicant is a landlord. Hence, I have recorded my finding as to point no. 1 in affirmative.

8. The leave and license agreement is admitted to the respondents. They stated that said agreement was binding upon the parties only till death of the original licensor. Thereafter the possession become hostile and therefore they are residing in application premises. Admittedly there is no agreement after 31.12.1973. They stated that they are in continuous possession of license premises therefore they are now owners of license premises. The defense of adverse possession is rejected by this authority in leave to defend order. Moreover section 39 of MRC Act gives overriding effect to the proceeding before this authority. Therefore the defense of adverse possession cannot be considered. It is settled law that once leave and license agreement is admitted then status of licensee remains as it is until the execution of fresh agreement. The respondents are entered into license premises on the basis of leave and license agreement. Then original licensee died leaving present respondents. Therefore it is duty of respondent to restore the possession of license premises. The respondents stepped into the shoes of original licensee. Hence for this reason it is held that there was leave and license agreement and the applicant is landlord and respondents are licensees.

9. The last agreement between the original licensor and licensee was executed on 06.06.1969 for the period of 11 months commencing on 06.06.1969. The monthly license fees was 300/-. Then said agreement was extended by executing Kabuliat nama on same terms. As such the period was extended till 31.12.1973. The



last Kabuliat nama was signed on 01.02.1973. It was executed for further 11 months and it was agreed in the Kabuliat nama that it is executed for temporary purpose on payment of monthly compensation. The monthly license fees was Rs. 300/- and Rs. 900/- was security deposit. Then parties continued to act upon said agreement without and written agreement or Kabuliatnama. Thus the agreement extended by conduct of the parties. Then original licensee dies on 20.06.2015. The leave and license is not hereditary. Therefore the agreement come to an end by death of original licensee. The premises ought to have been restored and returned to the applicant. But it is not done. Hence it is held that the leave and license agreement is expired on 20.06.2015 by death of original licensee. Hence my findings as to point nos. 2 & 3 are recorded as affirmative.

**AS TO POINT NO 4 AND 5 :-**

10. The leave and license is expired on 20.06.2015. The premises is yet not vacated and handed over to the applicant. Section 24 of the MRC Act, empowered this authority to pass order of eviction and damages on the expiry of leave and license agreement. During argument the query regarding applicability of the new act to present proceeding was asked to the Id. Advocate of the applicant. They relied upon Chimanlal shah Vs Farhana Abdul Jabar Sayyad WP 3563 of 2008, wherein Hon'ble H.C. has discussed the issue of applicability of new act to old leave and license agreement. Although, I have held that the agreement was extended till 20.06.2015 by conduct of the parties but even otherwise the last Kabuliat nama was executed on 01.02.1973 for further 11 months.



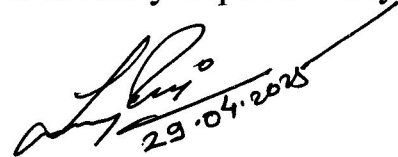
Therefore the respondent cannot be considered as deemed tenant as per law. Hence, considering the law laid and the facts of the case I found that the applicant is entitled for the possession and double license fees. Accordingly, I answered point 4 in affirmative and in answer to point no. 5 passed following order –

### **ORDER**

1. The application is allowed.
2. The respondent is hereby directed to handover vacant and peaceful Possession of application premises **“Flat No.4, Building No. 8-A, Chembur Navjivan CHS, 34 Ramkrishna Chemburkar Marg, Mahatma Gandhi Nagar , Chembur , Mumbai-400074.”** to the applicant within 30 days from the date of this order.
3. The respondent is hereby directed to pay damages to applicants at the rate of Rs. **600/- Per month (300 x 2 = 600/-)** from 21.06.2015 to till Handover the vacant possession of application premises.
4. The applicants is at liberty to appropriate security deposit if any.

**Mumbai**

**Date :29.04.2025**



**(V. K. Puri)**

**Competent Authority  
Rent Control Act Court,  
Konkan Division, Mumbai.**