

**BEFORE THE COMPETENT AUTHORITY, RENT CONTROL ACT
COURT, NAGPUR DIVISION, NAGPUR.**

Eviction Petition No. 02/2025.
G. Rajgopal Vs. Virendra

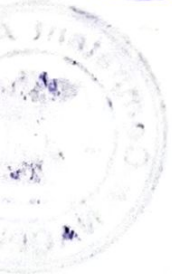
Order Below Exh. 10

(Passed on. 08.09.2025)

This is an application filed by respondent under the provision of Section 43 (4) (a) of the Maharashtra Rent Control Act, 1999 (for the sake of brevity hereinafter referred to as 'the Act') for leave to defend to contest the application filed by the applicant landlord/ licensor for eviction.

Respondent by way of present application submitted that agreement executed between him and the applicant is valid and legal. He is ready to pay the rent therefore applicant can not seek for eviction at his fancy. He has no alternative to reside as well there is no bona fide requirement of the applicant to get vacant possession of the suit property. On these grounds he prayed to grant permission to contest the matter.

3. The applicant in his say at Exh. 11 contended that respondent has admitted relationship of licensor and licensee between them. There is no dispute as to valid rent agreement between them. Furthermore, respondent has not filed affidavit in support of the present application on record. Filing of such affidavit is mandatory provision under the Act. Therefore, application itself is not maintainable. Moreover, respondent failed to file the present application within statutory period hence on this ground also it is barred by limitation. Respondent is deliberately protracting the matter. On these grounds he prayed to reject the application.



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25-09-25

04. Perused the application. Heard learned advocate both side at length. Applicants advocate in support of his oral submission relied on the judgment of Hon. Bombay High Court in the matter of Laxman Jagtap Vs. Addl. Commissioner in Writ Petition No. 579 of 2022 decided on 19th January 2022. Hon. High Court held therein that filing of affidavit in support of application under Section 43(4)(a) is mandatory hence filing of application without affidavit is not maintainable hence dismissed the petition.

05. Considering the application, say of the applicant thereon and rival submissions of both sides following points arise for my determination and I record my findings thereon with reasons as under;

Sr. No.	Points	Findings
1	Whether the respondent has made out case for grant of leave to defend to contest the application?	In the negative.
2	What order?	The application is rejected.

REASONS -

As To Point Nos.1 And 2 -

12. Before going into the rival submissions of both sides, I would like to refer relevant provisions of the Act as under;

Section 43 (4) (a) and (b): -

4) (a) - *The tenant or licensee on whom the summons is duly served in the ordinary or by registered post in the manner laid down in sub-section (3) shall not contest the prayer for eviction from the premises, unless within thirty days of the service of summons on him as aforesaid, he files an affidavit stating grounds on which he seeks to contest the application for eviction and obtains leave from the Competent Authority as hereinafter*

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provided, and in default of his appearance in pursuance of the summons or his obtaining such leave, the Statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant or the licensee, as the case may be, and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(b) The Competent Authority shall give to the tenant or licensee leave to contest the application if the affidavit filed by the tenant or licensee discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in section 22 or 23 or 24.

Therefore, to get permission to leave to defend, the respondent is required to file an affidavit with an application which discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in section 22 or 23 or 24.

15. Section 24 of the Maharashtra Rent Control Act of 1999 is very important as it states, that after the expiration of the duration or cancellation if the Licensee fails to vacate the premises then Licensor can approach the Competent Authority for the recovery of possession of the licensed premises and can also get the damages from the Licensee.

Section 24 of the Maharashtra Rent Control Act reads as under: -

“(1) Notwithstanding anything contained in this Act, a licensee in possession or occupation of premises given to him on licence for residence shall deliver possession of such premises to the landlord on expiry of the period of license; and on the failure of the licensee to so deliver the possession of the licensed premises, a landlord shall be entitled to recover possession of such premises from a licensee, on the expiry of the period of license, by making an application to the Competent Authority, and, the

Competent Authority, on being satisfied that the period of license has expired, shall pass an order for the eviction of a licensee.

(2) Any licensee who does not deliver possession of the premises to the landlord on expiry of the period of license and continues to be in possession of the licensed premises till he is dispossessed by the Competent Authority shall be liable to pay damages at double the rate of the license fee or charge of the premises fixed under the agreement of license.

(3) The Competent Authority shall not entertain any claim of whatever nature from any other person who is not a licensee according to the agreement of license.

Explanation- For the purposes of this section, -

(a) The expression "landlord" includes a successor-in-interest who becomes the landlord of the premises as a result of the death of such landlord; but does not include a tenant or a sub-tenant who has given premises on license;

(b) An agreement of license in writing shall be conclusive evidence of the fact stated therein."

16. On perusal of the aforesaid provision it appears that as per section 24 of the act, a landlord shall be entitled to recover from his tenant the possession of any premises owned by him on the ground that such premises are bona fide required by him for occupation by himself or by any member of his family, by making an application for recovery of possession of the premises, to the Competent Authority; and the Competent Authority shall make an order of eviction. Therefore, in view

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of the aforesaid provision, it is clear that the applicant is a landlord within the meaning of section 24 of the act.

17. On perusal of the application, it appears that the relationship of licensor and licensee between the applicant and respondents is admitted fact. On perusal of a photocopy of leave and license agreement filed by the applicant it appears that said agreement has expired. Considering the application, admittedly respondent failed to file the affidavit in support of the present application. Later on, when said objection is raised by the applicant in his say, just to fill up the lacunae he files the affidavit on record. Same is not maintainable in the eyes of law. Furthermore, respondent is silent whether he has filed the present application within limitation or not. Nothing is on record in that regard. As respondent failed to file affidavit in support of the present application. It is not maintainable as held by the Hon. High Court. I am of the view that, the grounds raised by respondent for the grant of leave to defend to contest the application does not disclose such facts as would disentitle the landlord/ applicant from obtaining an order for the recovery of possession of the premises on the grounds specified in section 24 of the Maharashtra Rent Control Act, 1999. Hence, I pass the following order.

Order

1. The application is rejected.
2. The matter is proceeded further for an order of eviction.
3. Costs in cause.

Date : 08.09.2025
Place : Nagpur


(Smt. Ranjana Vijay Kamble)
Competent Authority,
Rent Control Act Court,
Nagpur Division, Nagpur.