

Presented on :	02/08/2021
Registered on :	02/08/2021
Decided On :	30/04/2025
Duration :	03Y08M28D

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

EVICTIION APP. NO.140 OF 2021

Exh.15

Sheela Ratilal Randeria @ kantharia

Age: 62 Years, Occ: Nil

R/at- Flat No.A-604, Nightingale

CHSL, Charkop, Hindustan Naka,

Kandivali West, Mumbai-400067.

.....Applicant

VERSUS

1. Dhiman Navinchandra Kantharia

Age:52 Years ,Occ: Business

2. Meenakshi Dhiman Kantharia

Age:0ears ,Occ: Business

Both R/at- Flat No.378/24, Prabhanjan

CHSL, Sector-3, Charkop, Kandivali

West, Mumbai-400067.

.....Respondent

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

Appearance

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Adv. A.T Sangle

Adv. Taiuttam ShindeAdvocates for the applicants.

Respondent no.1 in Person.

Adv. Anant S. PalkarAdvocate for the respondent no.2.

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J U D G M E N T

(Delivered on 30th 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, arrears of license fees and damages.

2. As per the submission of the applicant, she is an owner of premises mentioned in application. The premises was allotted to her by MHADA as per lottery system in the year 1991. The applicant and respondent no.1 are real sister and brother. After the marriage of respondent no.1 they wanted to reside in license premises. Therefore they requested applicant to give them said license premises. The applicant conceded the request and allowed respondents to reside in license premise on the basis of leave and license agreement. They executed leave and license agreement dated 09.04.2007 for the period of 5 years commencing from 09.04.2007 and ending on 08.04.2013. The license fees was Rs.1,500/- per month and security deposit was Rs.20,000/-. Said agreement was executed between applicant and the respondent no.1 only. Upon expiry of the said agreement fresh leave and license agreement was executed between the parties from 02.12.2015 for the period of 12 months. Said agreement was executed between applicant and the respondents. The applicant as a licensor and the respondents are the licensee. The agreement is expired on 01.12.2016. The respondents have not vacated the premises after expiry of the agreement. They have not paid license fees to the applicant. In the year 2017, applicant's father died and thereafter the applicant made persistent requests to the respondents for the possession of license premises. She sent notice to the respondents on 02.06.2021 and filed present application before



this authority. The application was came to allow by this authority on 18.01.2022. In the eviction, the respondent no.2 was not a party. Therefore the respondent no.1 was only directed to hand over the application premises to the applicant. The Hon'ble High Court in Writ Petition no.6065/2023 set aside the order of this authority and directed to reconsider this matter by adding respondent no.2 as a party in this case.

3. Accordingly, the matter is restored on 31.08.2023 and the respondent no.2 namely Meenakshi Kantharia impleaded as a party in this case on 15.07.2024. The respondents were already pursuing this matter in person before this authority. The respondent no.2 appointed advocate on her behalf on 09.08.2024. Thereafter on 18.10.2024 the respondent no.2 filed her reply to this eviction application. Thereafter on 14.11.2024 written notes of argument on behalf of respondent no.2 is came to be filed. Then on 10.01.2025 respondent no.2 filed leave to defend application without any affidavit and affirmation. Thus sufficient opportunity is given to respondent to present her case before this authority. The leave to defend application and the affidavit as per section 43 of the MRC Act is not filed. Therefore the contention of the respondent cannot be technically considered. Despite in the reply and the leave to defend application respondent no.2 has objected the second leave and license agreement dated 02.12.2015 but they have admitted the execution of first leave and license agreement dated 09.04.2007. In this background I have heard this application from both sides and taken up this matter for the order.



The necessary details of the application are as under:

A]The description of premises mentioned in application :

“R/at- Room No. 24, Plot No. 378, Prabhajan Co-operative Housing Society Ltd., Sector-3, Charkop, Kandivali West, Mumbai-400053.

B]The period and details of leave and license agreement :

Period- First agreement with applicant and respondent no.1

For 05 years commencing from 09.04.2007 and ending on 08.04.2013.

Fees and Deposit –Rs.1,500/- per month as a monthly license fee.
Rs.20,000/- Interest free refundable security deposit.

Second agreement with applicant and respondent nos.1 & 2

For 12 months commencing from 02.12.2015 and ending on 01.12.2016.

Fees and Deposit –Rs.3,000/- per month as a monthly license fee.
Rs.20,000/- Interest free refundable security deposit.

4. 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 applicant is a landlord of application premises?	Yes
2	Is there any leave and license agreement between applicant and respondent in respect of application premises?	Yes
3.	Does the period of Leave and License	Yes

	is expired by efflux of time?	
4.	Does applicant is entitled for relief as prayed?	Yes
5.	What order?	Application is allowed.

REASONINGS

AS TO POINTS 1, 2 AND 3 -

5. The premises stands in the name of applicant. This fact is admitted by parties in this case. In the defence the respondents stated that they are residing in application premises as family arrangement. The respondents have paid 50 % consideration for purchasing license premises. Therefore the applicant has allowed respondents to stay in license premises permanently. This defense of family arrangement and payment of consideration cannot be raised before this authority because the document shows the applicant is a sole owner of the license premises. The applicant no.1 has categorically admitted the execution of the leave and license agreement dated 09.04.2007 in his leave to defend application dated 22.09.2021. He stated the agreement was prepared for society purpose. As per the definition of landlord the person who gives premises to licensee on leave and license basis is a landlord. To decide the relationship between the parties the leave and license agreement is vital document. The execution of first leave and license agreement is admitted by respondent no.1. As per section 24 of MRC Act, the written leave and license agreement is conclusive. The agreement is



admitted. Therefore the opportunity to prove contrary cannot be given to the respondents. The authority has to rely upon the leave and license agreement. As per the admitted possession and the leave and license agreement it appears the applicant is a landlord of the premises. Hence, my finding as to point no.1 is *affirmative*.

6. The applicant produced the document Exh-B which is the copy of leave and license agreement dated 09.04.2007. The agreement is admitted by the respondent no.1. The subsequent agreement dated 02.12.2015 is executed between the applicant and respondent no.1 & 2. It is at Exh-C. The respondent no.2 has not filed leave to defend application. She failed to show triable issue in this case. Therefore as per section 43 of MRC Act, the contention of the applicant is deemed to be admitted. Moreover the respondent has admitted that they have executed the first leave and license agreement. The respondents have come with the specific case that they paid part consideration of license premises and therefore they have 50 % share in the license premises. They are residing in license premises as a family arrangement. The applicant in support of her case produced leave and license agreement. On the other hand, the respondents have nothing in their hands to show that there occupation of the license premises is as family arrangement but not on the basis of leave and license agreement.

7. Admittedly, the respondents are occupying license premises. The documents show they entered into the premises by executing leave and license agreement. The agreement is expired in 2013 and fresh agreement is came to be executed in the year 2015. Second



agreement was executed with both husband and wife i.e. respondent no.1 & 2. The contention of the respondent that they have not executed second leave and license agreement and their signature are forged. Said contention cannot be relied unless there is some supporting documents in their hand to show that their possession is otherwise than the leave and license agreement. Mere statement is not sufficient to disbelieve the written leave and license agreement. The respondent no.1 admitted the execution of first leave and license agreement. Therefore as per the agreement he is licensee of the applicant. Once the party entered into the premises as a licensee he remains licensee till execution of further agreement. In the case in hand although the second agreement is denied by the parties, the first agreement is admitted. Therefore the occupation of the license premises on the basis of leave and license agreement. The respondent no.2 despite being granted opportunity has failed to file leave to defend application on affidavit. Therefore the contention of the applicant is deemed to be admitted. The leave and license agreements are at Exh-B & C. It is written agreement. The leave to defend is not obtained therefore this authority has to rely upon both leave and license agreement. Hence, it is held that there is leave and license agreement between applicant and respondents. The second agreement is expired on 01.12.2016. Hence the finding as to point no. 2 & 3 are recorded in affirmative.

8. The document **Exh-B & C** is the copy of registered Leave and license agreement. It is conclusive as per **section 24 - Explanation (b) of MRC Act** for the fact stated therein. The period of second



leave and license is expired on 01.12.2016 by efflux of time. Thus it is proved that there is leave and license agreement between applicant and respondents and it is expired by efflux of time. Hence for this reason I have recorded my findings as to point no. 2 and 3 in *affirmative*.

AS TO POINT NO 4 AND 5 :-

9. The leave and license agreement is expired on 01.12.2016. The premises is yet not vacated. The respondents are still occupying said premises. Their possession of application premises is on the basis of leave and license agreement. It is expired therefore they have no right to reside in application premises. The respondents failed to bring anything contrary on record. Therefore this authority has to rely upon the leave and license agreement. Section 24 of the MRC Act, empowered this authority to pass order of eviction and damages on the expiry of leave and license agreement if premises is occupied after the expiry of leave and license agreement. The license fees as per last leave and license agreement is Rs.3,000/- per month. Hence, I found the applicant is entitled for eviction order and damages at the rate of double of license fees from the date of expiry of leave and license agreement. Accordingly, I answered point 4 in *affirmative* and in answer to point no. 5 passed following order –

ORDER

1. The application is allowed on following terms.
2. The respondents are hereby directed to handover vacant and peaceful Possession of application premises “Room No. 24, Plot



No. 378, Prabhajan Co-operative Housing Society Ltd., Sector-3, Charkop, Kandivali West, Mumbai-400053.” to the applicant within 30 days from the date of this order.

3. The respondents are directed to pay damages to applicant at the rate of Rs. **6,000/- Per month (3,000 x 2 = 6,000/-)** from 02.12.2016 to till Handover the vacant possession of application premises.

4. The applicant is at liberty to appropriate security deposit if any.

Mumbai

Date :30.04.2025



30.04.2025

(V. K. Puri)
Competent Authority
Rent Control Act Court,
Konkan Division, Mumbai.