

Civil Revisions No.19/2022**ORDER BELOW EXH.1**

This revision application filed under sub section 4 of section 34 of the Maharashtra Rent Control Act, 1999 (hereinafter 'the Act of 1999') is challenging the order dated 16/06/2022 passed by learned 3rd Additional Judge, Small Causes Court, Pune below Exh.9 in Civil Suit No.79/2021 whereby it allowed the respondent/plaintiff's application filed under Order 15-A of the Code of Civil Procedure, 1908.

2] The applicant contends that the Learned Trial Court wrongly applied provisions of order 15-A of the Code of Civil Procedure, 1908 ('CPC' hereinafter) without considering the contentions raised by the applicant in Exh.25. The Learned Trial Court was wrong in holding that since application Exh.25 for fixing standard rent was rejected the application Exh.9 needs to be allowed. The Learned Trial Court should not have relied upon the provisions of the agreement as the agreement allows the plaintiff to claim even the GST as the part of license fee. The Learned Trial Court did not consider the circumstances created by the Corona pandemic and it did not consider provisions of section 6, 8 and 10 of the Act of 1999 and wrongly allowed application Exh.9 while rejecting application Exh.25.

3] The circumstances giving rise to present revision are that, the respondent has filed a suit against the applicant seeking recovery of

possession of the licensed premises as well as of the license fee. The respondent also moved application at Exh.9 under Order 15-A of CPC requesting the Learned Trial Court to direct the applicant to deposit the license fee during pendency of the suit. After hearing the parties, the Learned Trial Court directed present applicant to deposit license fee of Rs.3,68,160/- per month from the month of February 2021 within 1 month and further directed present applicant to deposit such licensee fee regularly on 7th of each month till the disposal of suit.

4] Following points arise for determination against which findings are recorded for the reason to follow.

Sr.No.	Points	Findings
1	Whether the impugned order is legal, proper and correct?	In the affirmative
2	Whether the impugned order needs interference?	In the negative
3	What Order?	As per final order.

5] The advocate for applicant submits that in view of the provisions of section 6 of the Act of 1999, if the license is for a period of more than 1 year, the provisions of standard rent would apply. In that case according to him, provisions of section 8 would be attracted requiring the Court to fix the standard rent and permitted increases, despite a written contract existing between the parties. He further submits that in view of provisions of section 10 of the Act of 1999, rent in excess of standard rent is illegal and recovery of such rent is even made punishable. According to him, therefore, the Learned Trial Court

was not right in ignoring the provisions of section 6, 8 and 10 of the Act of 1999 and holding that in view of written agreement, the parties are bound by the same. Thus, he submits, that the learned Learned Trial Court was wrong in involving the provisions of order 15A of CPC.

6] Advocate for applicant further submits that the premises were already let in the year 2009 against monthly rent of Rs.1 lakh. At the most that should be considered as the standard rent. Since, the provisions of section 8 of the Act of 1999 are attracted, provisions of Order 15A of CPC are not applicable.

7] On the other hand, advocate for respondents submits that an agreement of license exists between the parties to suit. There is no dispute about terms and conditions of such agreement. The license fee is quantified and agreed upon by the parties. The copies of notice and E-mails reveal that the agreement was of leave and license and not of lease. The applicant has acted as per the agreement and therefore is not estopped from claiming otherwise. It is bound by the agreement. The dispute between the parties is of a nature which attracts the provisions of Order 15A of CPC.

REASONS

AS TO POINT NO.1 TO 3:-

8] perusal of documents reveal that agreement dated 17/09/2019 entered into by the parties is an agreement of license. It's

clause 12 clearly indicate that it was not a lease and no right of tenancy is conferred upon present applicant. Though provisions of section 6 of the Act of 1999 provide that the provisions relating to standard rent would apply to even a premises given on license for a continuous period of 1 year, provisions of section 8 of the Act of 1999 reveal that it has no reference at all to the premises 'given on license' or a dispute of 'license fee' between the 'licensor' and 'licensee'. It only deals with the fixation of standard rent about the premises 'let' and about the dispute of standard rent between the 'landlord' and 'tenant'. The licensee and tenant as understood in rent legislation are different. Their rights and status are different. The rent legislation does not equate a tenant with a licensee and a landlord with a licensor. So also it does not equate premises let and premises given on license. In view of this difference, provisions of section 8 will not be attracted in the case in hand. Therefore, there was no question of fixing standard rent.

9] Provisions of Order 15A of CPC clearly reveal that it applies to a suit filed by licensor against the licensee for eviction with arrears of license fee. Considering that present suit is between licensor and licensee, relating to recovery of licensed premises as well as of license fee, there can be no two opinions that the provisions of Order 15A of CPC will be attracted in present case.

10] Considering above discussion, to my mind, the Learned Trial Court has not committed any error in applying the provisions of Order 15A of CPC and directing the present applicant to act as per the license agreement.

11] Though it is argued by the advocate of applicant that the Learned Trial Court has directed the applicant to deposit the GST, the impugned order does not reveal so.

12] Considering the circumstances, no ground is made out to interfere in the impugned order. The order is apparently legal, proper and correct and hence needs no interference. Consequently, I answer point no.1 in the affirmative and point no.2 in the negative and in response to point no.3, pass following order.

ORDER

- 1] Civil Revision Application No.19/2022 is rejected with costs.
- 2] Inform the Learned Trial Court accordingly.

Date : 11/10/2022
Pune

(Ajit N. Mare)
District Judge - 6, Pune

I affirm that the contents of this PDF file Order are same word for word as per original Order.

Name of Stenographer	Pranjali Prasad Bokil (Stenographer – Grade-I)
Court Name	Shri. Ajit N. Mare District Judge – 6 & Additional Sessions Judge, Pune
Date of Order	11/10/2022
Order signed by Presiding Officer on	17/10/2022
Order uploaded on	17/10/2022