

MHSN020003482024 	R.C.S.No.66/2024 M/s. Star Mens Collection / Shree Yasholaxmi Construction Ltd., Registered
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ORDER BELOW EXH. 45

The gist of this application is that the term of leave and license agreement between the plaintiff licensee and defendant licensor has ended on 15/07/2025 itself. Defendant has filed counter claim for restoration of possession of suit property and hence the suit automatically collapses and liable to be dismissed. The plaintiff cannot remain in possession and suit property beyond period of the agreement and this fact has been admitted by him in his plaint. Therefore, a decree for eviction can be passed on the basis of admission tendered by him. Hence, defendant prayed for dismissal of suit as per Order 12 Rule 6 r/w Section 151 of Code of Civil Procedure.

2. Plaintiff filed his say at Exh. 47. Plaintiff has objected the said application citing that the suit and counter claim are yet to be proved on the basis of evidence. Even though the document titles as leave and license but in entirety the intention of the parties was and entering into the lease agreement. Accordingly, defendant has recovered rent time to

time from the plaintiff. The email communication between 05/09/2020 from defendant and subsequent email communication also shows that the intention hence, plaintiff prayed for rejection of application.

3. Perused the record. Heard both sides.

4. The contractual relation is admitted by both the parties. The defendant has claimed it as leave and license agreement but plaintiff has contended that intention of parties was to create the lease agreement. The disputed agreement is filed at Exh.3/1. Upon perusal, it is named and styled as 'Leave and License Agreement'. All the contents thereof are in the nature of leave and license. It does not expresses intention of parties to create a lease agreement. Therefore, the defense of plaintiff in that context looks perverse.

5. Plaintiff has also raised that contention about reception of rent by defendant and the email communications dated 05/09/2020 and afterwards. They are available at Exh. 50/1 and 50/2. Upon perusal thereof, they are in the nature of rent waiver communication due to the rent waiver policy due to the Covid-19 pandemic. Although it uses the word 'Rent' but it cannot be said to be a document varying or adding the terms of original agreement available at Exh. 3/1. Therefore,

the defence of plaintiff in this respect, also looks perverse.

6. At the same time, defendant has prayed for passing the judgment an admission as per Order 12 Rule 6 since plaintiff has admitted the expiry of terms and agreement of leave and license. However, as per Order 12 the judgment on admission can be passed when the parties are not at the issue on any question of law or of fact. There have to be unequivocal and unqualified admission in the pleading. However, looking at the pleadings of parties, there are same points and disputes which does not give rise to unambiguous, unequivocal and unqualified admissions which dispense with framing of issues. So also my predecessor looks to have framed issue on 30/04/2024. Hence, the present application looks to be not maintainable.

7. At the same time both parties have relied on same citations to support their case. First citation relied on by defendant is **Hon'ble Karnataka High Court in Suresh Babu C v/s Mr. V. Varadarajan, Regular First Appeal 1340/2025**. The facts mentioned in same are identical with present case in some sense but upon entire perusal of said, it does not occurs that the judgment was passed by Trial Court therein on basis of admissions and without any opportunity to both parties to lead the evidence therein, hence on that point this judgment cannot

be said to be squarely applicable to the present case.

8. The second citation relied on by the plaintiff is of **Sikhar Chand v/s. NST Baribai of Hon'ble M.P. High Court reported in AIR 1974 MP 75** in that case originally the suit was filed by point land lord for eviction of defendant tenant. Later on both parties entered into compromise accordingly plaintiff filed an application under Order 12 Rule 6 of Code of Civil Procedure for the decree of eviction. However, in the present case there is no such compromise present between parties. The fact of that case of the present case in hand are although different. Hence, the ratio lade down that in although direction for this Court but cannot be said to be wholly application to the present case.

9. The last citation relied on by the defendant is of **Shipping Corporation India v/s. Machodo Brothers the said judgment is of Hon'ble Appex Court and reported in AIR 2004 SC 2093** on going through the said case it was regarding the contact of agency terminated by principal. Thus agent filed the suit for declaration that the order of termination of agency was illegal the agent also filled subsequent suit for permanent injunction. Prima facie it is clear that the contractual relation between the parties in these two cases is totally different. The principal agent relationship implies the master servant rela-

tionship and principal is bound by any act committed by agent however, in the case of lease agreement or live and license agreement the capacity of parties is entirely different is no such liability between the parties on that point the said citation is not applicable to the present case in hands.

10. On the other hand, plaintiff has relied on the following judgment. The first is of **Hon'ble Apex Court in Jeevan Diesels and Electricals Ltd. v/s. Jasbir Singh Chaddha (HUF), reported in 2010(6) SCC 601.** The another is also of **Hon'ble Apex Court in Rajesh Mitra and Anr. v/s. Karnani Properties Ltd., reported in (2024) 9 SCR 644.** The last one is of **Hon'ble Bombay High Court in Western Coalfields Ltd. v/s. Swati Industrial, reported in 2004(1) Bom.C.R. 322.**

11. I have gone through all these citations. However, the foundational facts of the cases mentioned therein are totally different from the present one. Hence, in my humble opinion those citations are not squarely applicable to the present case.

12. In such case, to summaries the discussion it can be said that looking at the pleadings of parties there are no unequivocal and unqualified admissions which will dispense of with framing of issues. Rather my Ld. Predecessor has framed

issues on 30/04/2024. Hence, the application cannot be allowed, however the defence took by plaintiff disputing the nature of agreement and the subsequent email communication between parties allegedly recognising the said agreement as lease agreement are totally perverse which entitles defendant the payment of costs from plaintiff. Hence, at the end I pass following order -

ORDER

1. Application is rejected.
2. Looking at the perverse defences took by plaintiff he should pay costs of Rs. 3,000/- (In words Three Thousand Rupees) to defendant.

Sangli.

Date : 06/04/2026

(Onkar Sanjay Shastri)
5th Jt. Civil Judge Junior Division,
Sangli