

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9525 OF 2025

Mohammed Arbaaz Aziz Farooqui ...Petitioner

Versus

Hiroo Hiranand Ragoowansi ...Respondent

Mr. S. M. Gorwadkar, Senior Advocate, a/w Mr. Niranjana Mogre and Mithil Inamdar, for Petitioner.

Ms. Priti Purandare a/w Sandesh Deshpande and Atharva Salvi, for the Respondent

CORAM: N. J. JAMADAR, J.

DATED: 24th JULY, 2025

PC:-

1. Heard the learned Counsel for the petitioner.
2. The petitioner has filed an additional affidavit which indicates that the notice of application under Section 24 of the Maharashtra Rent Control Act, 1999 was served on the petitioner on 15th January, 2025. The petitioner appeared and filed an affidavit on the 30th day thereof. The Competent Authority has proceeded on the premise that though the petitioner appeared and filed the affidavit within the stipulated period yet the petitioner had not sought leave to defend the application for eviction.

SANTOSH
SUBHASH
KULKARNI

Digitally signed
by SANTOSH
SUBHASH
KULKARNI
Date: 2025.07.28
16:22:51 +0530

3. Section 43(4)(a) of the Act of 1999 provides that the tenant or licensee on whom the summons is duly served 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 the grounds on which he seeks to contest the application for eviction and obtains leave from the Competent Authority.

4. Mr. Gorwadkar, the learned Senior Advocate for the petitioner, submitted that the petitioner had, in fact, filed the affidavit and Competent Authority has proceeded on an incorrect premise that leave was not sought or obtained by the petitioner.

5. Ms. Purandare, the learned Counsel for the respondent, submits that the petitioner had not sought leave by filing a separate application and, even in the affidavit filed on 14th February, 2025, there is no whisper that the petitioner was seeking such leave.

6. On its plain reading, Section 43(4)(a) of the Act of 1999 requires filing of an affidavit. Whether the Competent Authority could have proceeded on the premise that though the affidavit was filed, leave to defend was not sought by the

petitioner and insisted upon a formal application for leave, warrants consideration.

7. Issue notice to the respondent.
8. Ms. Purandare, the learned Counsel, waives notice for the respondent.
9. The respondent is at liberty to file an affidavit-in-reply within a period of two weeks.
10. Stand over to 14th August, 2025.
11. In the meanwhile, there shall be an ad-interim relief in terms of prayer clause (b).

[N. J. JAMADAR, J.]