



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11469 OF 2024

Shri Bhaskar Jagannath Gadekar

Age: 46 years, Occupation: Business and Agri

Resident of: Plot No.13, 14

Sector N-1, Cidco, Aurangabad,

District Aurangabad.

.....PETITIONER
(Org. Applicant)

VERSUS

1. The Deputy Collector @ Rent Controller,
Aurangabad, District Aurangabad.
2. The Circle Officer,
Aurangabad, District Aurangabad.
3. Smt. Kanta Sadashiv Dahat
Through her Power of Attorney Holder,
Smt. Rachana Madrewal
Resident of: "Antardvip" Plot No.2-3,
Ranjanwan Housing Society, N-9, M-2 Road,
Cidco, Aurangabad, District Aurangabad.
4. M/s Ellora Steels Private Ltd.
Through its Liquidator
Having Office at 5th floor,
Bank of India Building,
High Court Premises, Fort,
Mumbai-32.

.....RESPONDENTS
(Nos.2 and 3 Org. Respondents)

Mr. Mukul S. Kulkarni, Advocate for the petitioner
Mrs. B. B. Gunjal, AGP for respondent-State
Mr. Mahesh R. Sonawane, Advocate for the respondent no.3

CORAM : AJIT B. KADETHANKAR, J.
DATED : 30TH MARCH, 2026

JUDGMENT :-

Rule. Rule made returnable forthwith. Pleadings are complete by the contesting parties. At the instance of parties, the Writ Petition is heard for final disposal.

1. Introduction:

The case is about execution of an eviction decree ordered in 2011 arising out of eviction proceeding of 1992. Execution remained pending for decades on account of failure of the executives and at the instance of a stranger to the litigation. The Petitioner who purports himself to have been orally assured by the tenant that the tenant shall sell out the 'subject-matter tenanted property' to the petitioner, challenges the execution of possession warrant under eviction decree ordered against the tenant.

2. Subject-matter:

'Subject-matter property' is a leasehold property owned by the City and Industrial Development Corporation Ltd. ('C.I.D.C.O.' for brevity). Lessee rented out it to the Respondent No. 4, a company. An eviction proceeding was filed by the Lessee against the tenant company in 1992 which reached upto this Court. In 2011, this Court ordered eviction of the Tenant within a stipulated time. An execution proceeding was undertaken by the Lessee before the Rent Control Officer. In 2015, Execution was ordered by the Rent Control Officer after giving notice to all the concerned. Possession warrant was issued in 2023. The Petitioner, a stranger lodged objection that a word was given by the Tenant to him that the tenant shall sell out the 'subject-matter property' to him. Contending to have entered into possession of the 'subject-matter property' on the basis of the word, the Petitioner instituted atleast 06 proceedings including three Writ Petitions to cancel the possession warrant. Under the orders of this Court, the Rent Control Officer heard the Petitioner and rejected his objection. Hence the Petitioner has lodged present Writ Petition.

3. Facts of the case:

i. The subject matter property was leased out by the C.I.D.C.O. to one M. N. Wankhede on 07-12-1973. By obtaining permission from the C.I.D.C.O., the Lessee constructed a residential house thereon. Consequent to the death of the Lessee in 1978, his daughter namely Kanta Sadashiv Dahat placed her feet into the shoes of the Lessee by approval of the C.I.D.C.O.

ii. The subject matter property was tenanted by the Lessee to the respondent no.4- Ms. Ellora Steels Pvt. Ltd. The tenant company defaulted the rent. On 06.10.1992, the Lessee filed a proceedings against the tenant/respondent no.4 for eviction under Section 12(2) (1), 15(b)(iii), 19(3) of the Hyderabad Rent Control Act. The said proceedings was dismissed vide order dated 29.12.1994.

iii. A Rent Appeal bearing no.4 of 1995 filed by the Lessee/respondent no.3 was dismissed by the District Court, Aurangabad on 07.12.1999. The Lessee filed Civil Revision Application No.781 of 2000 in this Court against dismissal of his Eviction Proceedings.

iv. Vide its judgment and order dated 09.12.2011, this Court allowed the Civil Revision Application and directed the tenant/respondent no.4 to hand over possession of the 'subject-matter property' to the Lessee therein on or before 31.03.2012.

v. The respondent no.4- tenant sought review of the order passed in the Civil Revision Application No.781/2000. Vide order dated 14.09.2012 passed in Civil Application No.143 of 2012, the Review Application came to be dismissed.

vi. Failure on the part of the Respondent No. 4 to evict the 'subject-matter property' in terms of the directions passed by this Court, constrained the Lessee- Respondent No.3 to file Execution Proceedings before the Rent Control Officer ('RCO' for brevity).

vii. In the meantime, the Lessee executed a Deed of Assignment with Lessor's approval in favor of the Respondent No. 3 namely Ms.Rachana Madrewar in respect of the 'subject-matter property'. The instrument was duly registered in the office of the Sub Registry Aurangabad. The C.I.D.C.O. recorded Ms. Madrewar's name as Lessee of the 'subject-matter property'.

viii. The Execution Proceedings remained pending for a considerable period. Hence, a Writ Petition No.11212 of 2014 was filed by the respondent no.3/Lessee in this Court for direction to conclude the Execution Proceedings expeditiously.

ix. On 10.12.2014, the Writ Petition came to be disposed of by this Court with directions to the Rent Control Officer Aurangabad to decide the Execution Proceedings within a period of four weeks therefrom. The notices were issued by the R.C.O. to the Tenant i.e. Respondent No.4 on all the available addresses as also on the address of the subject matter property. The notices were also served on the liquidator of the respondent no.4.

x. Vide order dated 16.02.2015, the R.C.O. directed the Lessee to publish the notice in execution in a Daily Newspaper. Accordingly, on 17.02.2015 a notice to the tenant/respondent no.4 was published in Daily Punya Nagari, which is a widely circulated newspaper in Aurangabad district. Despite having been served by the notice issued by the R.C.O. vide ample opportunities and in multiple ways, the Respondent no.4 did not respond to such notice nor did appear in the Execution Proceedings.

xi. As such, the R.C.O. Aurangabad allowed the Execution Proceedings vide order dated 21.04.2015 (Exhibit-E, Page no.40). A possession warrant was issued independently for execution of the possession. Yet, the possession warrant was not executed. Hence at the behest of the Lessee, vide order dated 07.02.2023, the Circle Officer Aurangabad was authorized and directed to take possession of the 'subject-matter property', and to hand over to the Lessee in terms of the orders passed by the High Court. The notice of possession was affixed on the 'subject-matter property'.

xii. Interestingly, the petitioner filed Writ Petition No. 1699 of 2023 in this court challenging the Possession notice. However, immediately the Writ Petition was withdrawn with liberty to file appropriate proceedings.

xiii. Then, on 03.03.2023 the Petitioner filed a Civil Miscellaneous Application bearing no.92 of 2023 before the learned Ad-hoc District Judge-1, Aurangabad. This was an application to condone the delay of 2873 days occurred in challenging the order dated 21.04.2015, passed by the R.C.O. in the Execution Proceedings. The possession notice dated 07.02.2023 was also put to challenge. ('Rent Appeal proceedings' for brevity).

xiv. During pendency of the Delay Condonation Application before the District Court, the petitioner simultaneously filed a proceeding before the Rent Control Officer on 31.03.2023 for setting aside/recalling the order dated 21.04.2015 passed in the Execution Proceedings.

xv. On 23-06-2023, the Petitioner filed a Pursis in the District Court and withdrew the Rent Appeal proceedings with delay condonation application. The Rent Appeal proceedings were disposed of on 28.07.2023 in view of withdrawal pursis. The withdrawal of proceedings expressly was to prosecute the Objection Application in the Execution proceedings before the R.C.O. Aurangabad.

xvi. In the Objection Application before the R.C.O. against the Possession notice, the petitioner averred prayers which are reproduced as follows:

1) By allowing application impugned dated 21.04.2015 passed by the Rent Controller Aurangabad. Bearing No.2015/उ.जि.भु.स/कृ खो वि म /भ.नि/सि आर/91/ ओ आर सी-41. Be set-aside being ex-parte one.

2) Darkhast filed by applicant Kanta Sadasshiv Dahat be heard on merit.

3) Applicant Kanta Sadashiv Dahat be directed to add present applicant as party to darkhast proceeding.

xvii. The Petitioner sought to say that he was inducted by the Tenant i.e. R.No.4 into the subject matter property with a word that the Tenant shall sell out the subject matter property to him. He submitted to the R.C.O. that his Rent Appeal proceedings were pending in the District Court. Petitioner's predominant contention was that he be given an opportunity of hearing. Pertinent to note, petitioner suppressed the withdrawal of Rent Appeal proceedings from Rent Control Officer.

xviii. During pendency of the Objection Application before the R.C.O., The petitioner filed Writ Petition No.7676 of 2023 in this Court to seek stay to the possession warrant during the pendency of his objection proceedings pending before the R.C.O. The petitioner therein submitted that, to seek immediate protection against the possession warrant, the Writ Petition No.7676 of 2023 was filed. The said Writ Petition came to be disposed of with directions to the Rent Controller/Executing Court to decide petitioner's application within a period of four weeks therefrom allowing the parties

to raise all contentions. It was meant to give opportunity of hearing to the all stakeholders. Effect of order dated 21.04.2015 was stayed for four weeks only at the request of the Petitioner. This stayed the possession notice/warrant ultimately.

xix. Consequent to the order passed by this Court, notices were issued by the R.C.O. to all the parties including the petitioner, original tenant, official liquidator, the Administrator C.I.D.C.O., etc. Its pertinent to note that during the hearing, the Petitioner suppressed the fact that he has already withdrawn the Rent Appeal proceedings filed before the District Court. On the contrary it was pleaded there that Rent Appeal proceedings are pending before the District Court.

xx. The hearing conducted by the R.C.O. was pursuant to the directions issued by this Court in order to facilitate an opportunity of hearing to the Petitioner, which in his grievance, has not received to him prior to the passing of order dated 21-04-2015 in the execution proceeding.

xxi. The Petitioner had nothing to produce before the R.C.O. to support his case. The Tenant also did not come up to strengthen Petitioner's case.

Petitioner's own case was that he was given a word by someone on behalf of the tenant company that the tenant shall sell out the 'subject-matter tenanted property' to him, and that therefore he himself inducted himself in the 'subject-matter property'.

xxii. After hearing all the parties the R.C.O. observed that the Petitioner was given full opportunity of hearing. That, the Petitioner did not produce anything to support his contention. Whatever opportunity of hearing the Petitioner wanted, that was awarded to him by the R.C.O. Relying upon the case maintained by the Petitioner that his Rent Appeal proceedings were pending before the District Court, the R.C.O. obviously recorded that in such scenario the efficacious remedy for the Petitioner was to prosecute the Rent Appeal proceedings, and that the proceedings before the R.C.O. won't be maintainable.

xxiii. Resultantly, the Rent Control Officer @ District Collector, Chhatrapati Sambhajanagar vide the impugned order dated 30.08.2024 rejected petitioner's application.

As against this, the petitioner is before this Court.

4. At the instance of the learned Counsel for the parties, I have heard them extensively. I have also cautiously gone through the entire record produced by the parties in this Writ Petition. It is pertinent to note that after filing of this petition, once time was sought to carry out amendment in the pleadings to incorporate the pleadings that 'the Appeal Proceedings filed by the petitioner in the District Court were withdrawn'.

Thereafter, again adjournment was sought on some other ground. The respondent no.3 raised a grievance that due to pendency of the Writ Petition, the authorities were not executing the possession warrant without there being no preventive orders.

Vide order dated 07.01.2025, this Court clarified that there was no interim relief in favour of the petitioner. As such even today, there is no interim relief in the matter, yet the possession warrant is not executed by the Authorities.

5. SUBMISSIONS

5.1. Mr. Mukul S. Kulkarni, learned Counsel for the petitioner candidly agrees that the petitioner has nothing on record to show that the petitioner under any authority occupied the subject matter property, except the bare words. However, he reiterates that the Petitioner occupied the subject matter property at the behest of respondent no.4. He submits that somebody from Respondent No.4's office has given a word to the Petitioner that the Respondent No.4 shall sell out the subject matter property to him.

5.2. As a challenge to the impugned order, Mr. Kulkarni would raise twofold argument i.e.

(i) If the Rent Control Officer was of the opinion that the proceedings were not maintainable due to pendency of the Rent Appeal proceedings, he ought not to have observed anything on merit;

and;

(ii) If on merit observations are to be made, Petitioner ought to have been given an opportunity of hearing by the Rent Control Officer before passing the orders dated 21.04.2015, for which matter be again remanded back to the Rent Control Officer.

5.3. Mr. Kulkarni submits that if it is held that the order dated 30.08.2024 is passed looking into merits of the case, then the petitioner ought to have given an opportunity before passing the order dated 21.04.2015 and to demonstrate his merit. With these arguments, Mr. Mukul Kulkarni, learned advocate for the Petitioner prays to allow the Writ Petition even on the principles of equity.

5.4. Mr. Mahesh R. Sonawane, learned Counsel for the respondent no.3 submits that the present petition is apparently nothing but an another attempt by the petitioner to protract the proceedings with an ulterior motive to retain illegal possession of the subject matter property. He would point out that its not that the Petitioner was awaken only the year 2023 (Writ Petition No.1699 of 2023). Mr. Sonawane takes me to the reply affidavit wherein copies of the orders passed by the learned 3rd Civil Judge (S.D.) Aurangabad in Regular Civil Suit No.34 of 2018, are on record.

5.5. Referring to the orders passed in the suit (supra), he would point out that the Petitioner was well aware of all the proceedings right in the year 2018 itself, yet the Petitioner suppressed this fact from all other courts and authorities.

Mr. Sonawane, learned Counsel for the Respondent No. 3 would demonstrate from the recitals of the orders passed by the learned Civil Judge, that the Petitioner merely kept pending even the hearing on Temporary Injunction application for five years.

5.6. Mr. Sonawane advocates the findings recorded by the Rent Control Officer passed vide the impugned order dated 30.08.2024. He was at pains to submit that despite there being no stay passed by this Court and as also the same expressly having been observed by this Court, the petitioner somehow has succeeded in retaining the illegal possession. He submits that his client is a lawful lessee of the plot leased by the C.I.D.C.O. and a lawful owner of the house constructed thereon. He would submit that it is high time that this Court must interfere and the respondent no.3 be handed over the possession of subject matter property. He gives emphasize on the point that the Petitioner has always made false statement before the R.C.O. and the Courts including this court about pendency of proceedings, and called for indulgence.

He submits that conduct of the Petitioner must be taken into consideration seriously. He places reliance on the following judgments:

1. ***K. D. Sharma Vs. Steel Authority of India LTD. & Ors***, reported in ***2008 (12) SCC 481***, wherein it is held as under:

29. If the primary object as highlighted in Kensington Income Tax Commissioners is kept in mind, an applicant who does not come with candid facts and 'clean breast cannot hold a writ of the Court with 'soiled hands'. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, maneuvering or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the Court, the Court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the Court does not reject the petition on that ground, the Court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of Court for abusing the process of the Court.

2. ***Chandra Shashi Vs. Anil Kumar Verma***, reported in ***1994 AIR (SCW) 4994***, wherein it is held as under:

1. The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of

the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment, so also to enable it to administer justice fairly and to the satisfaction of an concerned.

2. Anyone who takes recourse to fraud, deflects the course of judicial proceeding; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to them for the wrong done, but also to deter others from indulging in similar acts shake the faith of people in the system of administration of justice.

3. *K. Jayaram & Ors. Vs. Bangalore Development Authority & Ors*, reported in **2022 (12) SCC 815**, wherein in the headnote **A**, it is held as under:

(A) Petitioner approaching the writ court must come with clean hands and put forward all facts before the Court without concealing or suppressing anything.

4. *Dalip Singh Vs. State of U.P. & Ors.*, reported in **2010 (2) SCC 114**, wherein it is held as under:

1. For many centuries, Indian society cherished two basic values of life i.e., 'Satya' (truth) and 'Ahimsa' (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of justice delivery system which was in vogue in pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-

independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order, to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

2. In Hari Narain v. Badri Das, AIR 1963 SC 1558, this Court adverted to the aforesaid rule and revoked the leave granted to the appellant by making the following observations:

It is of utmost importance that in making material statements and setting forth grounds in applications for special leave made under Article 136 of the Constitution, care must be taken not to make any statements which are inaccurate, untrue and misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. Thus, if at the hearing of the appeal the Supreme Court is satisfied that the material statements made by the appellant in his application for special leave are

inaccurate and misleading, and the respondent is entitled to contend that the appellant may have obtained special leave from the Supreme Court on the strength of what he characterizes as misrepresentations of facts contained in the petition for special leave, the Supreme Court may come to the conclusion that in such a case special leave granted to the appellant ought to be revoked.

Placing reliance upon the observations cited above, Mr. Sonawane, learned Counsel prays to dismiss the Writ Petition.

6 DISCUSSION AND FINDINGS:

6.1. The facts in the case are very clear. The Petitioner was never a tenant nor a sub tenant in the 'subject-matter property'. It is also not his case that the Lessee has ever agreed to transfer that property to him. A feeble attempt is made by the petitioner to convince that he occupied the subject matter property at the behest of respondent no.4 – tenant of the Lessee. Petitioner's bone of contention is that some official of the Respondent No.4 tenant company agreed him to sell out the 'subject-matter property', and hence he introduced himself in it. Suffice to note there is nothing on record even to suggest that the petitioner was authorized to occupy the premises by the respondent no.4.

6.2. One must not lose sight of the fact that the 'subject-matter property' is a leasehold property owned by the C.I.D.C.O., a special town planning authority. Even a lawful leaseholder/ Lessee also can not transfer the leasehold rights without permission of the C.I.D.C.O. Petitioner tries to justify his possession on the pretext that a word was given to him on behalf of tenant that the tenanted premises shall be sold to him by the tenant. Such an agreement absolutely doesn't bear any legal sanctity.

I do not comprehend with the Petitioner's case that the tenant could sell out the tenanted leasehold property to him, and that possession under such oral agreement can be lawfully protected. By no stretch of imagination such case could be accepted. Such an agreement is not binding on the Respondent No. 3 – the owner of house and the Lessor i.e. the C.I.D.C.O. Pertinent to note, the Petitioner has never claimed specific performance of contract against the Respondent No. 4. He merely wants to retain his unlawful possession over the 'subject matter property', which can no more be permitted.

6.3. What the Petitioner purportedly wanted to put forth before the Rent Control Officer prior to the Execution Order dated 21-04-2015, he had full opportunity to produce such material before the same authority in the hearing conducted by the Rent Control Officer pursuant to the orders passed by this Court in Writ Petition No. 1699 of 2023 and 7676 of 2023. However, the Petitioner except bare words did not place anything on record to justify his possession and the authority under which he inducted himself in the 'subject-matter property'.

6.4. Falling deficit to adduce 'adequate evidence' is one thing and having absolutely 'no evidence' is another thing. Hence on facts I find that before the Rent Control Officer even after receiving full opportunity of hearing, as also before this Court in the present proceeding the Petitioner has utterly failed to prove that his possession in the 'subject-matter property' was lawful to invoke the principles of equity. In any case as observed supra, an agreement of whatsoever nature i.e. oral or written, on behalf of tenant to sell out the tenanted premises to a stranger is not at acceptable for any purpose, nor protection can be granted to the possession under such agreement.

6.5. Now I deal with Petitioner's first objection as regards to findings of the Rent Control Officer that Petitioner's objection was not maintainable.

6.5.1. Its a matter of fact that the Petitioner himself pleaded before the Rent Control Officer that his Rent Appeal proceedings were pending before the District Court. Obviously, the Rent Control Officer observed that the appropriate remedy would be to prosecute the Rent Appeal proceeding, and that the objection application won't be maintainable.

6.5.2. It is undisputed that, Petitioner's Rent Appeal proceedings were already withdrawn by the Petitioner on 28-07-2023. Petitioner suppressed this vital information and made utterly false statement before the Rent Control Officer that the Rent Appeal proceedings were pending. By making it a point that his Rent Appeal proceedings were in process, the Petitioner sought to secure orders suppressing the factum of withdrawal of the Rent Appeal Proceedings.

However, by seeking amendment in the present Writ Petition at paragraph No.10A and Grounds Nos. II-A and II-B, the Petitioner attempted to overcome the factual incorrect statement made before the Rent Control Officer as also before this Court.

The amendment reads as follows:-

paragraph No. 10A:

“The Petitioner states and submits that on 23-06-2023, a purshis was filed before the learned District Court in the pending appeal on behalf of the present Petitioner and thereby permission was sought for withdrawing the appeal in view of filing of application for setting aside ex-parte order dated 21-04-2015. Hereto annexed and marked as ANNEXURE G-1 is the copy of the pursis dated 23-06-2023 filed on his behalf before the learned District Court.

The Petitioner states and submits that the learned District Court vide order dated 28-07-2023 permitted the Petitioner to withdraw his appeal. Hereto annexed and marked as ANNEXURE G-2 is the copy of the order dated 28-07-2023 passed by the District Court at Aurangabad in Civil Misc.Application no.92 of 2023.”

Grounds

ii-“A”. The Respondent No. 1 has held that the proceedings for setting aside ex parte order are not tenable in with of pendency of appeal before the District Court It is however a matter of record that the appeal before the learned District Court is withdrawn vide order dated 28.07 2023 and hence the proceedings for setting aside ex parte order are required to be considered and decided on merits

ii-“B”. The Petitioner, due to his lack of legal acumen could not point out the withdrawal of his appeal either to the Respondent No 1 at the time of hearing of the said proceedings nor could state the same in the present Writ Petition It is only at the time of hearing, he realised his omission and hence the same is being brought on record without any delay.”

6.5.3. Pertinent to note, the amendments were carried out on 15-10-2024. Petitioner’s admission by way of amendment and the factual position itself thwarts his first objection. On one hand Petitioner argues that the Rent Control Officer ought not to have rendered anything on facts and merits because of pending Rent Appeal proceedings, while on the other hand he submits that such proceedings were no more live.

The moment Petitioner says that the Rent Appeal proceedings were already disposed of, the observation of Rent Control Officer about maintainability of objection application loses its implication. Simultaneously, petitioner's grievance in the Writ Petition too doesn't survive. The R.C.O. recorded that the objection application is not maintainable, because the Petitioner expressly stated that the Rent Appeal proceedings were pending.

6.5.4. Petitioner's grievance is that since the R.C.O. observed that the proceedings were not maintainable, and yet observed that the Petitioner had no proof in support of his claim, such observations adversely affect his merits before the Court. This is an ludicrous objection. The Petitioner has already withdrawn his Rent Appeal proceedings from the District Court. Except the objection application pending before the R.C.O., the Petitioner had no other proceedings pending in any court challenging the eviction/execution proceedings or to prosecute his any right. The fact of withdrawal of Rent Appeal proceedings are introduced by the Petitioner in this Writ Petition by way of subsequent amendment.

Prior to that, a positive statement is made in the Writ Petition that the Rent Appeal proceedings pending even when the objection application was heard.

6.5.5. It necessitates me to observe that, even before this court the Petitioner maintained the same strategy. Present Writ Petition is filed on 08- 10-2024. Petitioner was absolutely well aware that his Rent Appeal proceedings are already withdrawn by him on 28-07- 2023. Yet in the Writ Petition at paragraph No.10, the Petitioner made forthright statement on oath that his Rent Proceedings were pending before the District Court and hence the findings of the R.C.O. were faulty. This is a cautious and adventurous pleading. Notices were issued by this Court relying upon the pleadings on oath in the Writ Petition. Subsequently to overcome this false pleading, the amendment in paragraph No. 10A and Ground No. ii-B (*supra*) is placed into service.

6.5.6. Conduct and case of the Petitioner is hit by the foundation principle of 'law on equity and fairness' framed in famous Latin Maxim "***Nullus Commodum Capere Potest De Injuria Sua Propria***" i.e. no one can take advantage of his own wrong.

The Petitioner tried to justify the amendment on account of 'lack of legal acumen'. I do not accept that it was a bonafide lapse or bonafide inadvertence on the part of the Petitioner. Missing a pleading is one thing, and placing positively a false fact on oath in the pleading is another. Both do not stand on same footing when it comes to the bonafides of the party making a positive incorrect pleading. I have no doubt in my mind to observe that the statement at paragraph No. 10 of the Writ Petition about pendency of Rent appeal proceedings was a cautious one, and was averred to make this court believe the same. The original pleading at paragraph No. 10 was profusely to show how the Rent Control Officer erred in rendering findings despite Rent Appeal proceedings were in force.

6.5.7. The sequence of the litigation raised by the Petitioner, and the replacement of absolutely contrary pleadings made in the Writ Petition in the manner as observed supra, straightaway goes to show that Petitioner has never appeared before the this Court and the Rent Control Officer with clean hands.

6.5.8. This reminds the pristine principle of law *“Fraus et jus nunquam cohabitant”* elaborated by Lord Denning in his judgment in the case of “Lazarus Estate Ltd. v. Beasley 1956 (1) QB 702”. Since then in different set of facts, still it continues to guide how and why fraud and justice can not dwell together. In the case in hand, the term ‘fraud’ refers to Petitioner’s conduct as observed supra to frustrate a lawful decree and directions issued by this Court. He cautiously made positive averments of incorrect facts before R.C.O. and also before this Court with an intent to secure gainful relief. When the Authority turned down his application believing the factually incorrect averments, the same is taken as ground in the Writ Petition to challenge the order passed by the R.C.O. Again by making a casual amendment in the Writ Petition, entire plinth of the Writ Petition itself is sought to be changed. This certainly is not a lack of legal acumen or bonafide inadvertence, but its an advertent mischief played by the Petitioner on the Court.

6.6 Now, as regards to the objection raised by Mr. Mukul Kulkarni, learned advocate for the Petitioner on ‘an opportunity of hearing’ I record my findings as follows:-

6.6.1. Petitioner firstly filed Writ Petition No. 1699 of 2023, which was withdrawn by him with leave to file appropriate proceedings to challenge the execution warrant.

6.6.2. Petitioner lodged his objection application before the Rent Control Officer with prayer to recall the order dated 21.04.2015 and the possession notice/warrant.

6.6.3. Petitioner filed Writ Petition No. 7676 of 2023 seeking stay to the possession notice/warrant during pendency of his Objection application before the Rent Control Officer. This Court initially stayed handover of possession. After hearing the parties, on 06.11.2023 this Court directed the Rent Control Officer to give a hearing to the Petitioner and all the stakeholders, and then to pass appropriate orders. Stay to the possession notice/warrant was granted for a further period of 4 weeks only.

6.6.4. Rent Control Officer issued notices to all stakeholders, heard fully the Petitioner, and rejected Petitioner's objection application on 30.08.2024.

6.6.5. The hearing before the Rent Control Officer concluded by the impugned order of 30.08.2024 was conducted pursuant to the order passed by this Court in the Writ Petition No.7676 of 2023 and directions at paragraph No. 5 which reads thus:

“5. In view of the submissions made above, I deem it appropriate to direct the Rent Controller/Executing Court to decide the proceedings at page Nos. 54 and 67 of this petition within a period of four weeks. Interim stay is granted to the impugned order passed by the Rent Controller for the period of four weeks. The writ petition is disposed of accordingly. All civil applications are disposed of. All points/contentions are kept open.”

6.6.6. Disposal of the Writ Petition No. 1699 of 2023 and No. 7676 of 2023 relegated all the parties back to the Rent Control Officer with directions to the authority to give an opportunity of hearing to all the stakeholders and then to pass an appropriate order.

6.6.7. Accordingly in the subsequent hearing, the Rent Control Officer has given opportunity of fresh hearing to all the concerned, particularly the petitioner. Its an admitted fact that the Petitioner has nothing to support his case before the Rent Control Officer.

This is what the Rent Control Officer observed. Thereafter the impugned order is passed. Today also the Petitioner has nothing to substantiate his case, except his bare words, which, are in respect of such agreement that can never be accepted for any purpose. Under these circumstances, it would be an derisory prayer of the petitioner that still he be given an opportunity of hearing. His grievance that he was not heard before passing the order dated 21.04.2015 has stood redressed.

Hence I hold that Petitioner's 2nd and last objection also does not hold any water.

6.7. I have gone through the orders passed by the learned Civil Judge in Regular Civil Suit No. 34 of 2018. It seems that the suit was predominantly for a plot No. 13 adjoining to the 'subject-matter property' that too was also leased by the C.I.D.C.O. to the present Lessee. The petitioner contended in the said suit that officer of the tenant company had orally agreed to sell out the suit property and the present 'subject-matter property' in favor of the Petitioner. The said suit is subsequently dismissed for want of prosecution.

It shows that the Petitioner has kept properties including 'subject-matter property' lingering in the litigation. This obviously show that the Petitioner was well aware of the eviction proceedings even in the year 2018, unlike the cause of action shown to have arisen in 2023.

6.8. The fight and plight of the lessee has begun right in 1992. In the meantime, the lessee died. His daughter stepped into the shoes of her father. Present respondent no.3 purchased the lease hold rights from the lessee with approval of the C.I.D.C.O. by paying a valuable consideration. However, till today the fruits of the eviction which has started since 06.10.1992 are not received by the beneficiary/deed holder.

6.9. The worrying part of the case is that there is no preventive order passed by any Court since after order dated 06-11-2023 passed by this court in Writ Petition No. 7676 of 2023. Stay to the execution notice was only for a period of 4 weeks w.e.f. 06-11-2023. This court clarified on 07-01-2025 that there is no stay to the execution. Original order of eviction is passed by this Court on 09-12-2011 in the Civil Revision Application No. 781 of 2000.

Still the possession warrant is not executed by the Circle Officer Aurangabad for the reasons best known to him. This Court won't anymore act as a mute spectator to see how execution of the orders passed by it remain pending for indefinite period at the whims and pleasure of the executing authorities.

6.10. A decree on papers is of no use. We are well guided by the definitive legal maxim *Executio Est Finis Et Fructus Legis*. The literal meaning of the Latin maxim is that 'Execution is the end and fruit of the law'. Until a decree is executed, the verdict merely remains a decision without any fruit of the justice to the decree holder. If the directions and orders passed by the Courts and the Authorities under Law are not effectively and timely implemented, the justice pronounced shall remain only a portrayed lantern. Frivolous litigation and disregard of the executives to execute the court orders discourage the decree holder. To create and continue faith in justice, it must be seen to have been done. In my view in the cases like the present one, justice is done when the decree/order under law is seen executed.

6.11. The Honorable Supreme Court in the case of *Satyawati vs. Rajinder Singh @ Another reported at (2013) 9 SCC 491*, has observed that a execution and implementation of a decree must not be delayed. Non execution of a decree timely and the delay caused in execution deprives a decree holder of the fruits of his fight for justice.

6.12. The facts recorded above clearly show that the proceedings initiated at the behest of the petitioner are not bonafide. Besides the locus of the Petitioner to file those proceedings, it has abundantly come on record that the Petitioner always expressly made false statements on oath before this Court and also pleadings before the R.C.O. He secured orders from this court including stay too, on the basis of those false statements. Subsequently under the garb of amendment, took summersault to his contentions and created pandemonium in the matters. The conduct of the Petitioner of making false pleading in order to secure favorable orders from the court is nothing but sheer abuse of the process of law. Mere earning leave to amend pleadings does not *ipso facto* immune a party from the risk and liability incurred by earlier pleadings.

6.13. I have even offered an opportunity of hearing to the learned Counsel for the parties on the point of costs, and have heard them accordingly. While Mr. Mahesh R. Sonawane, learned Counsel for the respondent no.3 pressed for heavy exemplary cost, Mr. Mukul S. Kulkarni, learned Counsel for the petitioner sought to justify that the circumstances did not warrant imposition of cost on the petitioner.

Hence, I am of the considered view that the Writ Petition is liable to be dismissed with exemplary costs in view of the conduct of the petitioner as recorded above.

7. Hence, I pass following order:

ORDER

- i. The Writ Petition stands dismissed.
- ii. The Circle Officer, Aurangabad shall execute the possession warrant dated 07.02.2023 without any default and excuse, and shall hand over possession of the 'subject-matter property' to the respondent no.3 within a period of four weeks from today. The Circle Officer, Aurangabad to file compliance report in this Court within Five weeks from today. The Petitioner shall peacefully vacate the 'subject- matter property' in the possession handover process.

- iii. In the circumstances, costs of Rs.25,000/- is saddled on the petitioner. Amount of costs be deposited in this Court within a period of four weeks from today.
- iv. Upon such deposit, the respondent no.3 is permitted to withdraw the same.
- v. It is clarified that the Circle Officer, Aurangabad shall execute the possession warrant in terms of operative clause (ii) of this order irrespective of whether the petitioner deposits the costs within the given time or not.
- vi. Writ Petition stands dismissed accordingly.
- vii. Rule stands discharged.

(AJIT B. KADETHANKAR, J.)