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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3737 OF 2012

Shri. Madhusudan Baburao Bansode … Petitioner
Vs.
The State of Maharashtra and Ors. … Respondents

Mr. Ajay Subash Patil, for the Petitioner.
Mrs. M.P. Thakur, AGP, for the Respondent Nos.1, 3, 4 and 8.
Mr. J.G. Reddy (Aradwad) for Respondent No.2.
Mr. Piyush N. Shah, for Respondent No.5.
Mr. A.R. Shaikh i/by Shrikant D. Shukla, for Respondent No.6.

CORAM : A.S. OKA &
A.K. MENON, JJ.

DATE : 3rd FEBRUARY, 2015

P.C.

. Affidavit of Mrs. Praveena Chamankar filed on behalf of Respondent No.6 contains a specific statement that on 6th February, 2012, the Respondent No.5 allotted to the Petitioner Shop No.C-124 admeasuring 229.60 sq.ft. in composite building No.1 of the project. It is stated that though the Petitioner took over possession of the tenement on 6th February, 2012, he refused to sign an Agreement of Permanent Accommodation as well as a possession receipt. It is stated that the Petitioner is using the said premises. It is stated that the Petitioner is using half portion of the said shop and his daughter is running

dispensary in the remaining portion of the shop. Photographs showing sign board of the Petitioner's daughter is annexed to the affidavit. Paragraph 9 records that as the Petitioner was found to be eligible, Respondent No.6 has provided the aforesaid permanent tenement bearing No.C-124.

2. This Petition has been affirmed on 6th March, 2012. The Petitioner makes grievance regarding the demolition of the tenement earlier held by him. There is also a challenge to the order passed by the High Power Committee which is dated 31st March, 2012.

3. The affidavit of Mrs. Praveena Chamankar is filed in this Court on 30th December, 2013. The fact that the Petitioner has taken over possession of the said tenement has been specifically recorded in order dated 30th March, 2012. Today, the learned counsel appearing for the Petitioner, on instructions, does not dispute the correctness of the fact that the Petitioner is placed in possession of the said tenement. He states that the Petitioner is unable to tell the specific date on which he was placed in possession. Though affidavit of Mrs. Praveena Chamankar is filed on 30th December, 2013, the same is not disputed till today by filing any rejoinder. Considering the grievance made in the Petition, the fact that the Petitioner has taken over possession of the tenement No.C-

124 on 6th February, 2012 and has started using the same is a very material fact which is admittedly suppressed in the Petition. Therefore, considering such conduct of the Petitioner of suppressing a material fact, he should not be allowed to invoke extraordinary remedy under Article 226 of the Constitution of India which is a discretionary and equitable remedy. If the Petitioner has any grievance as regards the said accommodation or in relation to execution of an agreement, it is for the Petitioner to make a representation to the appropriate authority.

4. Subject to what is observed above, the Petition is rejected.

(A.K. MENON, J) **(A.S.OKA, J)**