

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4451 OF 2015

Smt. Sunderabai Wd/o Natthuji Chopkar

-vs-

The Commissioner of State Excise Department and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.PBhandarkar, counsel for the petitioner.
Ms P D.Rane, A.G.P for the respondent Nos. 1 and 2.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 24.08.2015.

By this petition, the petitioner seeks a direction to the respondent No.1-Commissioner of State Excise and the respondent No.2-Collector, Nagpur to take immediate cognizance of the complaints filed by the petitioner on the dates mentioned in the writ petition.

The petitioner claims to be the owner of Plot No.19 in Indira Nagar, Nagpur. According to the petitioner, the petitioner's husband had executed a lease deed in respect of three rooms on the said plot to one Vishal Devilal Jaiswal for running the CL-III liquor shop. A copy of the lease agreement is annexed to the petition. It is the case of the petitioner that though the lease agreement was executed in favour of Shri Vishal Devilal Jaiswal, Smt. Indirabai Devendra Jaiswal is operating CL-III licence in the premises. It is stated that several complaints have been made by the petitioner to the respondents-Authorities to seek the cancellation of the licence, but the respondents have not taken any action in the said matter. According to the petitioner, since certain illegal construction has been made in the property of the petitioner,

it would be necessary for the respondents to take action in respect of cancellation of the CL-III licence.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. If the terms of the lease agreement are violated by the tenant, the petitioner is free to take appropriate action against the tenant, in accordance with law. Admittedly, the property has been leased out by the husband of the petitioner in favour of Shri Vishal Devilal Jaiswal. Neither Shri Vishal Devilal Jaiswal, nor Smt. Indirabai Jaiswal have been joined as party respondents. The petitioner has the right to file appropriate proceedings against the tenant for breaching the terms and conditions of the lease deed. However, the petitioner would not have a right to seek action against the concerned person in respect of cancellation of CL-III licence. There is no right in the petitioner to seek the cancellation of the CL-III licence issued in favour of the licensee. Since there is no right in the petitioner to seek the relief claimed in the representation /complaint, no direction can be issued to the respondents to decide the representation. If the State Excise Department has conducted an enquiry and has found that some illegal construction is made by the tenant, the petitioner is free to take action against the tenant for eviction for breach of the conditions of the lease deed.

Since the petition is devoid of merit, the same is dismissed with no order as to costs.

JUDGE

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