

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

WRIT PETITION NO. 2738/2016

(ANIL BHAURAO KAMBLE & OTHERS **VERSUS** MAHARASHTRA TOURISM DEVELOPMENT
CORPORATION LIMITED, NAGPUR & ANOTHER)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sohoni, counsel for the petitioners.
Shri A.C. Dharmadhikari, counsel for the R-1.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 11, 2016.

By this writ petition, the petitioners seek a declaration that the respondent no.1-Maharashtra Tourism Development Corporation, Nagpur has no authority to evict the petitioners from the shops-establishments located in Bajaj Square, Wardha, without following the due process of law.

According to the petitioners, the petitioners have been inducted in the shop premises by the respondent no.2-Wardha Hotels Private Limited. It is stated that there was a lease agreement between the respondent no.1-Corporation and the respondent no.2, for a period of thirty years. It is stated that the petitioners were inducted in the premises by the respondent no.2 during the subsistence of the lease period. It is stated that for removing the petitioners from the premises, it would be necessary for the respondent no.1-Corporation to take recourse to the provisions of the Maharashtra Government Premises Eviction Act, 1955.

The statements made on behalf of the petitioners are seriously disputed by the respondent no.1-Corporation. It is stated that the respondent no.1-Corporation would not be required to institute proceedings against the petitioners under the provisions of the Act of 1955.

Considering the facts that are involved in this writ petition, we are of the clear view that it would not be possible to decide the issues involved in this writ petition in exercise of the writ jurisdiction. The petitioners could have filed appropriate proceedings to seek a declaration that they should not be evicted from the premises, without following the due process of law. The question whether the respondent no.2 has legally inducted the petitioners in the premises of the respondent no.1-Corporation would be an issue, which could be decided only after permitting the parties to tender evidence. The declaration, as sought by the petitioners could be sought in a civil suit or in any other appropriate proceedings.

In view of the aforesaid, we dispose of the writ petition with no order as to costs.

The points raised in the petition are, however, kept open.

JUDGE

JUDGE

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