

(WP 2193 of 2017)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 2193 OF 2017

Ismail Ayub Shaikh and Ors.	...Petitioners
Vs.	
State of Maharashtra and Ors.	...Respondents

Mr. Khan Mohd. Yusuf G. Panjatan for the Petitioners
Mr. V.P. Malvankar -AGP for the State -Respondent Nos.1 to 3 and 5
Mr. Madhav Jamdar for Respondent No.6

**CORAM : V.M. KANADE &
P.R. BORA, JJ**

DATE : FEBRUARY 22, 2017

P.C. :

1. Heard the learned counsel appearing on behalf of the Petitioners, learned AGP for the State and learned counsel for Respondent No.6.

2. The Petitioners are aggrieved by a notice issued by the Superintendent – Central Mental Hospital, Yerwada dated 30.1.2017, whereby they have asked to vacate the quarters which were allotted to them.

3. Brief facts are that the Petitioners are the employees of the

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Central Mental Hospital -Yerwada. Respondent No.6 filed a suit against the State Government, claiming the land which was occupied by the State Government. Respondent No.6 succeeded and final order for eviction of the land, which was occupied by the State Government, was passed. The Petitioners, who are the employees, working in the Central Mental Hospital, Yerwada have now claimed that they are the tenants of the said land and, therefore, obstructed the execution of the decree. The obstruction proceedings were dismissed on the ground that the Obstructionists have no right, title and interest over the said land and the appeal filed against the said order was also dismissed on the ground of delay. The Petitioners, thereafter, approached this Court, challenging the said order and this Court has condoned the delay which was caused in filing the appeal and has also remanded back the matter to the District Court and the said application is pending.

4. In the meantime, the impugned notice has been issued by the Central Mental Hospital- Yerwada, asking them to vacate the quarters and shift to another quarters, which are now being provided. Contention of the Petitioners is that they are the tenants and obstruction proceedings are pending before the District Court. Secondly, it is submitted that they have also applied for photo-passes since they are in occupation for long time.

5. In our view, the said pending proceedings will not come in the way of the Central Mental Hospital, Yerwada in shifting the Petitioners to the another quarters, we are, therefore, not inclined to interfere with the impugned notice. All the contentions of both the parties are kept

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open. Writ petition is dismissed. It is clarified that the even if the possession of these quarters are taken by Respondent No.6, their claim for the alternate accommodation and all other claims are kept open, pending the decision of the Appellate Authorities.

[P.R. BORA, J.]

[V.M. KANADE, J.]