

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition NO. 5249 OF 2015

1.Prashant Prabhakar Bhokare	
2.Manisha Praashant Bhokare.	Petitioners
<i>Versus</i>	
Prabhakar Sonaji Bhokare	...Respondent

Mr.Nitin P. Deshpande, for the Petitioners.

Mr.Shreyas S.Adhyanthaya, for Respondent.

CORAM : G. S. KULKARNI, J.

DATED : 14th DECEMBER,2017.

P.C. :

1. Heard the learned Counsel for the parties. Petitioner No.1 is the son of respondent who is senior citizen. Petitioner no.2 is the daughter in law of the respondent and the wife of petitioner no.1.

2. Respondent-father/plaintiff instituted Civil Suit No.229 of 2010 against the petitioners praying for possession of the suit house interalia contending that he is the owner of House No.89, Chawl No.9 situated at Gokhale Nagar, Pune; the suit house was the self acquired property of the respondent being allotted by MHADA. The respondent contended that after the marriage of petitioner no.1 with petitioner no.2 (defendants) which was solemnized on on 19 June 1997, the petitioners were residing in rented premises. On 18 December 2007 at the request of the petitioners, the respondent-father allowed them to reside in the suit

premises one room (for short 'suit house') as gratuitous licensees for a period of two months as the petitioners were searching for other rented premises. However, the petitioners did not take any steps to search rental premises. Moreover, the petitioners started harassing the respondent-father and his wife-mother of petitioner no.1. As things had become intolerable severely affecting them at such old age, the respondent had no alternative but to call upon the petitioners to vacate the room in their possession as also terminated the gratuitous licence. On the petitioners refusing to comply with the said request, the respondent was constrained to take the unpleasant step of filing a suit in question, seeking vacant possession of the suit premises and mesne profits.

3. Petitioners resisted the suit by contending that they are not the gratuitous licensees. It was contended that the suit house was purchased from the funds received from the sale of the ancestral property situated at Sangamner, Dist. Ahmednagar and thus the petitioners have right and interest in the suit property. The learned trial Judge framed appropriate issues and considering the evidence on record reached to a conclusion that petitioners were a gratuitous licensees of the suit house. It was held that the contention of the petitioner that the suit house was purchased from the funds received from sale of ancestral property was not proved. The trial Court accordingly decreed the suit by a judgment and decree dated 16 November 2011. The petitioners approached the appellate Court. The

appellate Court carefully considering the evidence on record, has confirmed the findings on all the counts as rendered by the learned trial Judge.

4. Learned Counsel for the petitioners has contended that the concurrent findings rendered by both the courts below are erroneous and petitioner no.1 would still have a legal right as a son to occupy the suit house even if he not being a gratuitous licensee. However, there is no material to justify this argument.

5. Having perused the judgments of both the courts below, I find no perversity in the findings on facts and on law, as arrived by the learned trial Judge and as confirmed by the learned appellate Judge. Admittedly there was no material to show that petitioner no.1 had any legal rights to occupy the suit room, much less as asserted in defending the suit. The petitioners were mere gratuitous licensees of the respondent-father, there is plentiful evidence in this regard. Petitioners, therefore, cannot assert that they can be permitted to occupy the suit premises.

6. The Writ Petition is devoid of merits. It is accordingly rejected.
No costs.

(G.S.Kulkarni, J)