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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2781 OF 2015

1. Jagdish P. Shukla and anr.

.. Petitioners

Vs.

1. The Chief Officer, Mumbai Building Repair
and Reconstruction Board Grihanirman Bhavan
Kalanagar, Bandra (E), Mumbai 51 and ors.

.. Respondents

Mr. Javed Shaikh i/by Mr. D. B. Deshmukh for petitioners.

Mr. Girish Utangale a/w Chetan Mhatre i/by M/s. Utangale & Co. for
respondent nos.1 and 2.

Mr. Garfield Mendonca a/w Ms. Varsha Sawant for respondent no.4.

Mr. A. I. I. Patel, Addl. G.P. for State.

CORAM: NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

APRIL 10, 2017.

P.C.

1. The petitioners, father and son, claim that both were residing
in two separate tenements and, therefore, same be considered as two
tenancies for the purposes of subject matter of this petition.

2. We have perused the Office Note dated 18/2/2011 of
respondent - MHADA and the order dated 17/8/2013 passed by the

Appellate Authority i.e. respondent no.2. The matter thereafter was taken upto respondent no. 3 – State. Respondent no.3 passed order on 2/1/2015. All these three authorities held against the petitioners claim that both of them be considered as two separate tenants.

3. Learned counsel for the petitioners submits that the Appellate Authority has failed to consider the material placed on record in its proper perspective. Reference was made to Clause 13 in Annexure – B to the Government Resolution under reference. In fact, the matter ought to have been considered on its own merits instead of going by certain illustration provided by the State. Learned counsel had taken us through the impugned orders and relevant record placed before us.

4. Learned counsel for the petitioners submits that illustration cannot control the scope of the statutory provisions.

5. We have heard the learned counsel appearing for MHADA and the learned AGP for State. It is submitted by the learned counsel that concurrent opinions are expressed by all the three authorities and there is no scope now to overturn the view expressed by the authorities by this

court in its writ jurisdiction. Learned counsel placed reliance on the material placed on record wherein it is noticed that the rent receipts were issued in the name of Jagdish Shukla for Room Nos.4 and 5. The electricity bill was also issued in the name of Jagdish Shukla. Considering the material placed on record and in the facts and circumstances of the case, first authority dealt with the matter and reached appropriate conclusion that the tenancy is one and the benefit would go to one person of the family.

6. In view of the finding reached by the authorities concerned, we are not inclined to interfere in the matter. Petition is accordingly dismissed.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(NARESH H. PATIL,J.)