

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1284 OF 2015

CHAMPADEVI KACHARULAL MUTHA, LRS GAUTAM KACHRULAL
MUTHA AND OTHERS
VERSUS
ROHIT SHASHIKANT PATWARI AND OTHERS

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Advocate for the Petitioners : Shri Deshpande Milind K..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th June, 2018

Per Court:

1 Despite issuance of notices to the Respondents on two occasions and having been served, no appearance has been caused by any of the Respondents.

2 The Petitioners, who are the original Defendants, are aggrieved by the order dated 29.12.2014 passed by the Appellate Court by which, the application (Exhibit 23) dated 30.10.2014 filed by the four applicants in Regular Civil Appeal No.20/2010, has been allowed and they have been permitted to be impleaded as the Respondents in the said appeal.

3 The learned Advocate for the Petitioners has strenuously criticized the impugned order. His contention is that the Petitioners' father

Kachrual Mutha was the tenant of the suit house. The original landlord Narayandas Gudniya had preferred the suit for declaration and possession against Kachrual Muta. The said proceedings were decreed and became final by the verdict of the Honourable Supreme Court.

4 It is then submitted that Narayandas Gudniya then sold the suit house to Respondent No.1 herein (Rohit Shashikant Patwari) on 21.06.2001. Respondent No.1 preferred RCS No.175/2003 against the Petitioners seeking eviction on the ground of bonafide and reasonable requirement and for willful default in payment of rent. The said suit was decreed by the judgment dated 09.12.2009. The Petitioners preferred the appeal before the Appellate Court. During the pendency of appeal, Respondent No.1 sold the house property to Ramlal Choudhiye and three others. Consequentially, Ramlal and three others moved an application Exhibit 23 on 30.10.2014 before the Appellate Court seeking permission to be arrayed as the Respondents contending that they would step into the shoes of the erstwhile landlord under Section 109 of the Transfer of Property Act. By the impugned order, the said application was allowed.

5 The grievance of the Petitioners is that the suit was decreed in favour of Respondent No.1 (Rohit Patwari) on account of his bonafide requirement. Ramlal and others cannot inherit the said ground merely because they have purchased the said house property from Rohit. Ramlal and others would be at liberty to file a separate suit seeking eviction of the

Petitioners on such grounds that they may desire to invoke. The cause of action now does not survive.

6 I find from the impugned order that the Appellate Court has concluded that on the one hand, since the purchasers of the house property have stepped into the shoes of the erstwhile landlord, an opportunity of being heard will have to be extended to them before deciding the appeal as the erstwhile landlord is no longer interested in the litigation and on the other hand, merits and demerits of the rival sides and all contentions of these Petitioners would be considered while deciding the appeal.

7 In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This Writ Petition being devoid of merit is, therefore, dismissed.