

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

WRIT PETITION NO. 10533 OF 2018

Suman Ramkrushna Chaudhary
and another

.. Petitioners

Versus

Meera Pandurang Chaudhari and others .. Respondents

Shri Satyajit S. Bora, Advocate for Petitioners.

Shri Sushikkumar H. Tripathi, Advocate for Respondent Nos. 1 to 3.

CORAM : S. V. GANGAPURWALA, J.

DATE : 21TH SEPTEMBER, 2018.

FINAL ORDER :

. The respondent Nos. 1 to 3 are legal heirs of original plaintiff. The petitioners are the legal heirs of original defendant. The suit is filed by plaintiffs for eviction under the provisions of the Maharashtra Rent Control Act. The plaintiffs led their evidence. The defendants also examined four witnesses. Thereafter filed application for issuance of witness summons (Exhibit 184) to three witnesses. The application is rejected.

2. Mr. Bora, the learned counsel for petitioners submits that, during the pendency of proceedings, the plaintiffs rented out another premise. The said fact was required to be proved by

examining Commissioner of Food and Drugs Department. So also now the respondent No. 2 herein is working with a private company. The petitioners do not have the agreement. In view of that the witnesses from the company were required to be examined to show that she is working with the private company as such is not in need of premises. The Court has rejected the application without considering relevancy of witnesses.

3. Mr. Tripathi, the learned counsel for respondent Nos. 1 to 3 submits that, the Court has rightly considered the application and rejected it. The learned counsel further submits that, no reasons are mentioned in the application for examining witnesses. Their names are also not given in the list of witnesses. The petitioners are prolonging the matter. In view of that, the Court has rightly passed the order.

4. I have considered the submissions canvassed by the learned counsel for respective parties.

5. It is true that the application filed by petitioners for issuance of witness summons is not exhaustive. It ought to have been filed by giving reasons for examining the witnesses.

6. However, it is submitted that, the suit for eviction is filed and on one of the ground is bonafide requirement. It is case of

the petitioners that the plaintiffs after institution of the suit have rented another premises to third party and business is carried out in the premises by the third party. To prove the same the Government Officer is sought to be examined. As far as witnesses Nos. 2 and 3 are concerned, it is for the party to prove the case and about the cause of action. No error has been committed by the Court in rejecting the application as far as non issuance of witness summons to respondent Nos. 2 and 3 are concerned.

7. In the light of the above, I pass following order.

8. The application Exhibit 184 is allowed only to the extent of issuing witness summons to the Assistant Commissioner Food and Drugs Department. The Court shall issue witness summons to the said witness as prayed for on the next date fixed before the Trial Court. Considering that the suit is of the year 2012, the Trial Court shall endeavour to decide the suit expeditiously. The parties shall co-operate in expeditious disposal of the suit. The writ petition is partly allowed. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Sept. 18

Bhalchandra
Sudhakar
Bodke

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