

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 4674 OF 2005

Malti Keshav Pimpalkhare
(since deceased) through heirs
1-A. Varsha Keshav Pimpalkhare
and another

...Petitioners

Versus

Narendra Waman Thanekar
(since deceased) through L.Rs.
1a) Smt. Shrirangi N. Thanekar
and others.

...Respondents

....

Ms. Prabha U. Badadare, Advocate for the Petitioners.

Ms. Dhanashri M. Hule, Advocate for Respondents No.1(a) and 1(d).

....

CORAM : R. G. KETKAR, J.

DATE : 22nd APRIL, 2019

P.C.

1. Heard Ms. Prabha Badadare, learned counsel for the petitioners and Ms. Dhanashri Hule, learned counsel for respondents No.1(a) and 1(d).

2. The petition was heard at length on 12.4.2019. During the course of hearing, Ms. Badadare stated that petitioners No.1-A and 1-B are present in the Court. Upon taking instructions from them, she stated that the petitioners will not press the petition if the respondents pay Rs.1 Lakh to them and gives time upto 31.8.2019 for vacating and handing over possession of the suit premises to them. The statement that only the petitioners are in possession and nobody else is in

possession was recorded. Assurance given on their behalf that within one week they will file undertaking in terms of paragraph-3 of the order was also recorded.

3. In the order dated 12.4.2019, statement of Mr. Shetye that respondent No.1(b) – Nishikant Narendra Thanekar was present in the Court was recorded. Upon taking instruction from him, Mr.Shetye stated that within two weeks he will give demand notice in the sum of Rs.1 Lakh. The statement made by Mr. Shetye was accepted.

4. In pursuance thereof, petitioners No.1-A and 1-B have filed undertakings dated 16.4.2019 stating therein that they are in possession of the suit premises and nobody else is in possession. In addition, they have stated in the undertakings that they have neither created third party interest nor parted with the possession, that they will hereafter neither create third party interest nor part with the possession and that they will hand over vacant and peaceful possession of the suit premises to the respondents on or before 31.8.2019. The undertakings dated 16.4.2019 given by petitioners No.1-A and 1-B are accepted.

5. Ms.Hule has handed over a Demand Draft bearing No.832677 dated 18.4.2019 drawn in favour of petitioner No.1-A Varsha Keshav Pimpalkhare in the sum of Rs.1 Lakh to Ms. Badadare, in the court today. Ms. Badadare acknowledges receipt of the same. The photo-copy of said Demand Draft dated 18.4.2019 is taken on record

and marked 'X' for identification.

6. In view thereof, by consent of parties, Writ Petition is disposed of in the following terms :

- i. The petitioners accept the correctness of the impugned orders and that their tenancy is extinguished.
- ii. The undertakings dated 16.4.2019 given by petitioners No.1-A and 1-B in terms of paragraph-3 of the order dated 12.4.2019 are accepted.
- iii. The petitioners will handover vacant and peaceful possession of the suit premises to the respondents on or before 31.8.2019 and will not seek further extension of time.
- iv. Rule is discharged with no order as to costs.

7. List the Petition for reporting compliance on 06.9.2019 at 3:00 p.m.. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)