IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.3972 OF 2018

Lingzay Olan Barretto ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Akhilesh Upadhyay for the Petitioner.

Dr. Birendra Saraf a/w Raqnjeev Carvalho, Aditya Nilkanthan i/by IC Legal for R. No.5.

Ms. Vrushali Maindad a/w Ankita Dishad and Abhjijit Desai for R. No. 2.

Mr. Milind More, Addl GP for the respondent State.

CORAM : B.P. DHARMADHIKAKRI &
REVATI MOHITE DERE, JJ.
DATE : JANUARY 09, 2019

P.C.:

Heard learned counsel for petitioner and and respondent no. 5.

2. The impugned communication at Exh. R dated 12/10/2018 only requests the petitioners to hand over possession. Counsel for respondent no.5 submits that if possession is not handed over, respondent no. 5 shall proceed further as per law and shall not forcibly dispossess anybody.

3. Counsel for the petitioners states that the petitioners have only demanded inspection because facts are complex and hence, they have to first ascertain the correctness of the claim made by respondent no. 5.

4. Our attention is also invited to order dated 23/9/2014 passed by the City Civil Court to show that respondent no. 5 is restrained from forcibly dispossessing the petitioners.

5. Though parties have got rival contentions to advance, we find that respondent no. 5 has only issued preliminary intimation and we accept the statement of respondent no. 5 that without issuing proper formal notice, no steps to dispossess any of the petitioners shall be taken. In view of this, we find that at present, there is no cause of action to petitioners. As and when they receive formal notice, they can raise all contentions and the same can be looked into by the appropriate authority at that juncture. Keeping all the contentions open, we dispose of the petition.

(REVATI MOHITE DERE, J.) (B.P. DHARMADHIKARI, J.)