

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2051 OF 2016

Late Vasantrya Nathuji Madankar, thr. LR Shobha wd/o Vasantrya Madankar and ors.

-vs-

Manohar s/o Kashinath Yerne and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. S. Ghate, Advocate for petitioners.

Shri P. H. Gulhane, Advocate for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : August 09, 2019

The challenge raised in the present writ petition is to the concurrent orders passed by the trial Court and the appellate Court directing eviction of the petitioners herein pursuant to the suit for eviction filed by the respondents.

2. It is the case of the original plaintiffs that in a partition effected on 20/03/1995 the suit property was allotted to the share of the plaintiffs. Before allotment of that property to the plaintiffs the predecessor of the petitioners Vasantrya was a tenant paying monthly rent of Rs.1050/-. It is submitted that the tenancy agreement is dated 30/11/1994. After Kamlabai became owner of the suit property, the tenancy was attorned. As the original plaintiffs had bonafide need of the suit premises they issued a

notice on 08/01/1999 and thereafter filed suit for eviction. The trial Court held that the tenancy agreement was validly terminated and as the bonafide need of the plaintiffs was proved the suit was accordingly decreed. The appeal preferred by the original defendant came to be dismissed on 08/01/2015. The decree for eviction has been challenged in the present writ petition.

3. Heard Shri S. S. Ghate, learned counsel for the petitioners and Shri P. H. Gulhane, learned counsel for the respondents. Perused the impugned judgments. It is seen that the plaintiffs became the owners of the suit property pursuant to the partition dated 20/03/1995. The tenancy was terminated by notice dated 08/01/1999. Despite having received the same on 15/01/1999 possession was not handed over. The evidence on record indicates that the plaintiffs had bonafide need of the premises in question. The tenancy being covered by the provisions of the Transfer of Property Act, 1882 the same has been validly terminated under Section 106 of the said Act by issuing a notice in that regard. Considering the establishment of relationship of landlord and tenant as well as the aspect of valid termination, the Courts were justified in directing eviction of the petitioners. In that view of the matter there is no reason to interfere with the said decree.

4. At this stage Shri S. S. Ghate, learned counsel for the petitioners submits that time be granted to the petitioners to vacate the suit premises as the petitioners are in possession since prior to 1995. Shri P. H. Gulhane, learned counsel for the respondents submits that reasonable time be granted. It is then submitted by the learned counsel for the parties that it is agreed between them that the petitioners shall vacate the suit premises by 31/12/2020. In view thereof the petitioner Nos.1 and 2 who are present in Court today shall file an undertaking during the course of the day stating therein that the petitioners would hand over vacant possession of the suit premises to the respondents by 31/12/2020. Time to vacate the premises is granted subject to filing such undertaking. Till that date they shall continue to deposit occupation charges regularly with the trial Court. On such deposit the respondents would be free to withdraw the amount.

The Writ Petition is disposed of accordingly. No costs.

JUDGE