

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

**920 WRIT PETITION NO.4843 OF 2021**

SANTOSHIMATA MERCHANT COOP. CREDIT SOCIETY LTD.  
BHUSAWAL, THROUGH ITS CHAIRMAN, VASUDEO ANANDA  
INGALE  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND  
OTHERS

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Advocate for Petitioner:

Mr. N. D. Sonawane h/f. Mr. Jadhav Kailas B  
AGP for Respondents/State: Mr. S. K. Tambe  
Advocate for Respondent No.4:  
Mr. A. G. Talhar h/f. Mr. Shaikh Naseer

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**CORAM: S. V. GANGAPURWALA &  
SHRIKANT D. KULKARNI, JJ.**

**DATE: 18<sup>th</sup> MARCH, 2021**

**PER COURT:**

1. Mr. Sonawane, learned Counsel for the petitioner submits that the impugned notice of eviction is *per-se* and *ex-facie* illegal. Notice is issued on the basis of the order of the Collector. The order of Collector is stayed by the State Government. Once the order is stayed by the State Government, the Chief Officer, Municipal Council could not have issued the present notice of eviction on the basis of the order of the

Collector. According to the learned Counsel, the petitioner is tenant over the said premises under the valid agreement and resolution passed by the Municipal Council. The learned Counsel submits that, even, the Maharashtra Rent Control Act, 1999 does not apply. The procedure as contemplated under the provisions of the Transfer of Property Act, 1882 will have to be applied. The respondents have not followed the procedure under the provisions of the Transfer of Property Act, 1882 nor the provisions of the Government Public Premises Eviction Act, though, according to the petitioner, the said Act is not applicable.

2. Mr. Talhar, learned Counsel appears for respondent no. 4 and suggest that the petitioner has illegally constructed the marriage hall. Respondent no. 4 does not have any locus to agitate in the present matter. It is the dispute between the Municipal Council and the petitioner.

3. As the petitioner claims to be the tenant over the property and the notice of eviction is

issued, may be, according to the petitioner, on illegal ground, the same can be agitated before the Civil Court effectively.

4. In light of that, writ petition is disposed of with liberty to the petitioner to avail remedy before the Civil Court. In that regard, all contentions of the parties are kept open. No costs.

5. For a period of seven (7) days from today the respondents shall not take any action against the petitioner pursuant to the impugned communication so as to enable the petitioner to approach the Civil Court. On lapse of seven (7) days, the protection granted by this Court shall come to an end.

[SHRIKANT D. KULKARNI, J.]      [S. V. GANGAPURWALA, J.]

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