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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2256 OF 2021

GEETA JAYYAA SHETTY AND ORS

....PETITIONERS

V/s.

**THE STATE OF MAHARASHTRA
AND ORS**

.....RESPONDENTS

Mr. Vishal Kanade a/w Mr. Ankit Jadhav i/b Mr. Amit Karle for the
Petitioners

Mr. P. V. Rajan Nelson APP for Respondent nos. 1 to 4 and 6.

Mr. Y. S. Bhate a/w Mr. N. R. Bubna for Respondent no. 5

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 4, 2021.

P.C.:

1] In exercise of powers under the provisions of The Bombay Government Premises (Eviction) Act, 1955 (Hereinafter referred to as 'the Act' for the sake of brevity) as amended in 2007, petitioner's eviction was ordered by the estate officer/competent authority on 21/08/2017. Said order was confirmed in Civil Appeal No. 12/2018 vide order dated 05/04/2021 passed by learned District Judge. As such, this petition.

2] Heard Shri. Kanade, learned counsel for the petitioner. He would invite attention of this Court to certain factual matrix viz. occupation of the suit premises since 1986 on-wards, agreement of temporary lease dated 24/10/2000, 02/03/2002 and 10/04/2010. Based on above documentary evidence, submissions of Mr. Kanade are, aforesaid lease has prompted the petitioner to refurbish and repair the premises in question at his own costs and expenses with prior approval of respondents. According to him, petitioner having invested substantial amount in refurbishing and redevelopment, they were legitimately expecting permanent lease of 30 years. However, instead of agreeing to the recommendation of extension of permanent lease of 30 years, Government initiated proceedings for eviction. Learned counsel for the petitioner in the aforesaid background would urge that order impugned passed by competent authority i.e. Deputy Collector and learned District Judge which are impugned in the present petition are not sustainable. According to Mr. Kanade, renovation of the structure of 4930 sq.ft. was at the cost of the petitioner. Considering the cost incurred, least that was expected was, the respondent should have compensated the petitioner on the issue of cost/investment made by him on the said development. In

the aforesaid background, it is claimed that both orders impugned are not sustainable.

3] Learned AGP Mr. P.V. Rajan Nelson appearing for the respondent would support the order impugned and submits that once the temporary lease period is expired, status of the petitioner is that of unauthorised occupant and accordingly proceedings were initiated for eviction which were rightly decided against the petitioner. According to him, claim for compensation, if any, towards expenses in regard of renovation/refurbishing can be an independent issue and there is hardly any material on record to link the same to the order of eviction.

4] I have perused the record produced before this Court and analyzed the same in the light of rival submissions.

5] It appears that premises in question are owned by the State Government and were used by National Cadet Corps (N.C.C.) for the purpose of catering needs of cadets, who in turn decided to establish

wet canteen and executed temporary lease in favour of petitioners.

6] Stater Government vide its notification dated 11/03/2003 has taken over the said property and decided to execute temporary lease of the same. Accordingly a lease was executed between Director of Youth Services, Maharashtra on behalf of Secretary, School Department and the lessee i.e. present petitioner. Said lease was for a temporary period came to an end by efflux of time. It appears that in the said temporary lease document, clause 10 was incorporated which speaks of 50% payment of cost of existing assets to the lessee i.e. the petitioner as estimated by Pune Municipal Corporation in case of premature termination of the agreement of lease. Clause 8 of the said agreement provides for termination. Period of said lease was 10 years has expired on 09/04/2013, as the lease commenced on 10/04/2003. Though director has recommended extension of lease period in favour of the petitioner, however, State Government, who is having final authority has not agreed to the same. As lease period of the petitioners has expired, Government was prompted to initiate proceedings for eviction of the present petitioner as the petitioners became an unauthorized occupant.

7] In the aforesaid background, the claim of the petitioner that he cannot achieve status of unauthorized occupant cannot be substantiated or supported by any of the material on record. Rather record speaks of that tenure of the temporary lease has already come to an end on 09/04/2013 and the petitioner was also in default of the payment of occupation charges also. It is further to be noted that clause no. 10, in relation to compensation, which is relied on by the petitioner in lease deed of 2003 will be hardly of any assistance particularly when lease was not terminated under clause 8 prematurely. Petitioner has enjoyed entire lease period of 10 years as can be inferred from the pleadings of the petitioner in eviction proceedings.

8] In the aforesaid background, in my opinion, the plea that petitioner is not adequately compensated or he cannot be termed as illegal occupant, cannot be accepted. As such, petition lacks merits and is dismissed accordingly.

[NITIN W. SAMBRE, J.]