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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4450 OF 2021

Mrs.Swati Shinde w/o Captain Shreeraj Shinde].. Petitioner

vs.

Union of India Through Secretary,]
Ministry of Defence & Ors.].. Respondents

Mr.Angsuman Oza, for Petitioner.

Smt.Shehnaz Bharucha with Pranil Sonawane i/b A.A. Ansari for
Respondent No.1.

Smt.R.M. Shinde, AGP for State.

**CORAM : PRASANNA B. VARALE &
N.R.BORKAR, JJ.**

DATE : 28th SEPTEMBER, 2021

P.C.

1] This Petition takes an exception to the orders dated 26.07.2021 and 02.08.2021, passed by the respondent No.3.

2] The petitioner is the wife of serving Naval Officer Captain Shreeraj Shinde and is presently residing at Flat No.10-A, SWATI, NOFRA, Near R.C. Church, South Colaba, Mumbai. It is stated that the petitioner's husband was posted in Mumbai and in September, 2020 he moved to Karwar on transfer. It is stated that on 26.07.2021 petitioner's husband applied for retention of Naval accommodation, in

which the petitioner is presently residing. By the orders impugned the request for retention is turned down.

3] We have heard the learned counsel for the petitioner and the learned counsel for the respondents. The learned counsel for the petitioner submits that the husband of the petitioner after moving to Karwar filed the divorce petition. It is submitted that the daughter of the petitioner is studying in 10th standard and son is studying in 8th standard. It is submitted that the son is suffering from learning disability. It is submitted that if in such situation, the petitioner is forced to vacate the present accommodation, it will cause great hardship to her and her children during Covid-19 pandemic situation as she does not have necessary independent financial means to arrange for alternate accommodation in Mumbai. It is submitted that petitioner was even constrained to lodge the FIR against her husband at Cuffe Parade Police Station, as she was subjected to ill-treatment. It is submitted that the respondents be thus directed to permit the petitioner to retain present Naval accommodation at Mumbai untill April, 2023 so that her daughter could complete her class XII education and her son could complete Class X education.

4] On the other hand, the learned counsel for the respondents submits that the petitioner has no locus standi to file the present petition. It is submitted that Captain Shreeraj Shinde has not challenged the impugned orders dated 26.07.2021 and 02.08.2021. It is submitted that the petitioner is not serving naval personnel and therefore not entitled to get any accommodation allotted or retain in her individual capacity.

5] It is further submitted that Captain Shreeraj Shinde has not contested the vacation order. On the contrary, he has completed all the formalities for handing over of the accommodation in question, but it is the petitioner who is not willing to move out of the accommodation and is in forceful occupation of the same.

6] It is submitted that allotment of Naval accommodation is made to service personnel and not to family members of the said service personnel. It is submitted that Mumbai Naval Station is facing acute shortage of accommodation and nearly more than 200 officers are waiting for accommodation to be allotted. It is submitted that the petition thus needs to be dismissed.

7] As we were not inclined to consider the request of the petitioner to permit her to retain the accommodation in question until April, 2023, the petitioner has filed an Undertaking that she be permitted to retain the accommodation in question till completion of her daughter's Class 10th board examination. The learned counsel for the respondents submits that, if the petitioner is permitted to retain the quarter, then she be directed to pay licence fee and other charges and submitted a statement of charges to that effect which the petitioner is required to pay. The Undertaking is taken on record and marked as 'X' for identification and Statement of Charges is taken on record and marked as 'X-1' for identification.

8] Considering facts and circumstances of the case and in view of the Undertaking of the Petitioner, following order is passed :

- i] Respondents are directed to permit the petitioner to retain Naval accommodation i.e. Flat No.10-A, SWATI, NOFRA,

Near R.C. Church, South Colaba, Mumbai, till completion of Class 10th Board Examination of petitioner's daughter to be held in March/April, 2022 subject to payment of charges mentioned in statement at X-1.

ii] Needless to state that the petitioner shall abide by all the terms and conditions of undertaking and shall vacate the accommodation in question as soon as her daughter's class 10th examination is over.

iii] Writ Petition stands disposed of in above terms.

iv] All concerned to act on an authenticated copy of this order.

[N.R.BORKAR, J]

[PRASANNA B. VARALE, J]