

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2282 OF 2019

BAJIRAO BALKRISHNA KALANTRE & ANR.)...PETITIONERS

V/s.

THE STATE OF MAHARASHTRA AND ANR.)...RESPONDENTS

Mr.Vaibhav Ugle a/w. Mr.V.B.Somawanshi, Advocate for the Petitioners.

Mr.Amit Shastri a/w. Mr.S.B.Gore, AGP for the Respondent.

Mr.P.G.Lad a/w. Ms.Priyanka Naik and Ms.Pruna Dhoke, Advocate for the Respondent-MHADA.

**CORAM : A. A. SAYED &
S. G. DIGE, JJ**

DATED : 9th SEPTEMBER, 2021

P.C.:

1 The Petition has been filed by the Petitioners seeking the following relief :

“a) That this Hon’ble Court be pleased to pass appropriate writ, order and direction directing

the quash and set aside the impugned notice dated 28th Jan, 2019 issued by the respondent no.2 on such terms as this Hon'ble Court may deem fit and proper.”

2 By the impugned Notice dated 28th January 2019, which was pasted on the subject Room No.6574, the Petitioners have been called upon to hand over possession of subject Room No.6574 in the Transit Camp failing which action was threatened to be taken under Section 95(A)(3) of the MHADA Act, 1976. We find that in the Petition, it has nowhere been stated that the father of the Petitioner was occupying Room Nos.6 and 6A in the old building known as Israel Mohalla and he was issued vacation notice and was given temporary accommodation in the subject Room No.6574 in the Transit Camp, pending repairs of the said old building. It is pointed out by learned Counsel for Respondent-MHADA that the father of the Petitioner had, as a matter of fact, transferred the old Room Nos.6 and 6A to a third party, one Aslam Khan Shajan Khan in the year 1996, and the rent receipts and electricity bill were transferred in his name.

3 Thus, the father of the Petitioners had ceased to have any right in respect of Room Nos.6 and 6A in the old building which was to be repaired by MHADA. The fact that the Petitioners' father or the Petitioners had continued to be in occupation of the transit camp even after the repairs to the old building was carried out, does not create any right in favour of the Petitioners to continue to hold on to the subject Room No.6574 of the transit camp of MHADA.

4 In the circumstances, no case is made out to grant any relief to the Petitioners.

5 We, however, make it clear that notwithstanding this order, the Petitioners shall be evicted only after following due process of law.

6 Subject to the above, the Petition is dismissed.

(S. G. DIGE, J.)

(A. A. SAYED, J.)

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