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

958 **WRIT PETITION NO.1049 OF 2021**

ANIL TRIMBAKDAS PATEL AND OTHERS
VERSUS
STATE BANK OF INDIA AND ANOTHER
…

Mr.S.G. Dodya, the advocate for the petitioners
...

**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**
DATE : 08.04.2022

P.C. :

1. We have briefly heard the learned advocate for the petitioners, in pursuance to the order passed by us on 22nd January, 2021, which reads as under :-

> "Keeping the point of maintainability of the writ petition open vis-a-vis remedy before the Civil Court, issue notice to the respondents, returnable on 26.03.2021."

2. The learned advocate for the petitioners submits that they expect this Court to pass an order viz. (a) direct the respondent – State Bank of India to enter into a rent agreement with the petitioners, or (b) we should quantify the compensation towards damages suffered by the petitioners because they have carried alternation in their

property under the promise of the respondents that they would rent the premises and direct the payment of compensation.

3. The petitioners further contend that Article 14 has been violated by the Respondent Bank and, hence, this petition is maintainable under Article 226 for issuing a Writ of Mandamus.

4. We are of the view that Article 14 cannot be invoked in such matters. While issuing a Writ of Mandamus under Article 226, we have to be conscious of the fact that we do not perform the duties of an Executing Court and assess damages so as to be quantified by considering purported expenses and losses suffered by the petitioners, in the face of disputed questions between the parties.

5. The facts and circumstances in which a Writ of Mandamus can be issued has been discussed and the law has been crystallized in the following judgments :-

i) Dwarka Nath Vs. Income Tax Officer, Special Circle, D Ward, Kanpur & another (AIR 1966 SC 81) (Paragraphs 4 and 5).

ii) Padfield and others Vs. Minister of Agriculture, Fisheries and Food and others (1968) 1 All England Law Reports (H.L.) 694

iii) Praga Tools Corporation Vs. C.V.Imanual and others, AIR 1969 SC 1306 (Paragraph 6)

iv) Isha Beevi on behalf of the minor Umaiben Beevi and others Vs. The Tax Recovery Officer and Addl. P.A. to Collector, Quilon & others (1976) 1 SCC 70 (Paragraph 5).

v) Comptroller and Auditor-General of India, Gian Prakash, New Delhi & another Vs. K.S.Jaganannathan and another (1986) 2 SCC 679 (Paragraphs 18 and 20).

vi) J.R.Raghupathy and others Vs. State of A.P. & others (1988) 4 SCC 364 (Paragraph 17 and 31)

vii) State of Manipur & others Vs. Token Sing & others (2007) 5 SCC 65 (Paragraphs 14 and 18)

viii) Pramod Kumar Vs. U.P. Secondary Education Services Commission and others (2008) 7 SCC 153 (paragraph No.24)

ix) Secretary, Cannanore District Muslim Educational Association, Karimbam Vs. State of Kerala & others (2010) 6 SCC 373 (Paragraph 29, 40 and 43).

6. Keeping the statutory remedy available to the petitioners open, this petition is dismissed.

(S.G.DIGE, J.) **(RAVINDRA V. GHUGE, J.)**

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