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

WRIT PETITION NO.3851 OF 1995

JAYANT RAMJI JADHAV and OTHERS.
VERSUS
MOTILAL NARAYANDAS BIHANI and OTHERS.

...
Mr Kunal Kale, Advocate h/f Mr R. S. Deshmukh, Senior
Advocate for petitioners

CORAM : SMT. BHARATI DANGRE, J.

DATE : 13th January, 2022

PER COURT:

1. The petitioners, claiming to be tenants through their father Ramji, were occupying the suit premise since last 30 years. On his death in the year 1978, the petitioners came in occupation of the premises.

The respondents/plaintiffs filed Regular Civil Suit No.857/1979, claiming possession of the premises for personal bona fide use and also claimed arrears of rent till 1979. The Joint Civil Judge Junior Division, Ahmednagar, on 15/10/1986, decreed the suit by recording finding in favour of the plaintiffs on two counts; that the defendants have failed to pay the rent since July 1995 and that the landlord has established the bona fide need. On

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an appeal being preferred before the 4th Additional District Judge, Ahmednagar, in form of Regular Civil Appeal No.75/1987, the learned Judge rendered a finding that the landlords have failed to establish the bona fide need, but held that the tenants were willfully defaulters and dismissed the appeal, on 14/03/1995, confirming the judgment and decree and directing to be evicted.

Being aggrieved, the tenants knocked the doors of this Court and while issuing Rule on 07/08/1995, ad interim stay of possession on usual terms was granted. On 07/10/2004, on failure of the petitioners to serve any of the respondents and by recording that original defendant No.2 Asaram had died and even the original petitioner died in the year 1991 and he was not served during his lifetime and his legal heirs are not brought on record, ad interim stay which was granted, was vacated.

The position as on today is, the possession of the petitioners is not protected and apparently, much water has flown, the building which was being occupied by the petitioners may not even exist as on today. It was specific plea of the tenants in the proceedings below, that the landlords have their own building and they are taking advantage of the dilated condition of the suit

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house, which has been specifically recorded in the judgment of the Trial Court.

In the aforesaid circumstances, due to lapse of time, when the possession of the petitioners is not protected and on perusal of the concurrent findings recorded against the petitioners, which in my considered opinion, do not suffer from any perversity, based on the evidence brought on record, the writ petition do not deserve to be entertained at this stage and accordingly, the same is dismissed by upholding both the impugned orders.

(SMT. BHARATI DANGRE, J.)

sjk