

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.513 OF 2019

MR. MANOHAR CHOWGULE & ANR. ...PETITIONERS

Versus

MRS. GAURUI D. HONAVARKAR ALIAS
MRS. GAURI PANCHAL ...RESPONDENT

Ms. Susan Linhares, *Advocate for the Petitioners.*
Mr. Ashwin D. Bhobe, *Advocate for the Respondent.*

CORAM: MANISH PITALE, J.

DATED: 10th February 2022

ORAL ORDER :

1. The petitioners have challenged concurrent orders passed by the two Courts below, whereby the petitioners have been directed to vacate the suit room situated in Dabolim Goa and to pay arrears of rent to the respondent.

2. The respondent filed an application under Section 22 of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968, against the petitioners seeking eviction from the suit room premises on the ground that the petitioners were in arrears of rent. The aforesaid application was resisted by the

petitioners. It was claimed that the petitioners had earlier moved an application under Section 18 of the Act for depositing rent and that the respondent had failed to place on record sufficient material to show that the petitioners were in arrears of rent. One of the contentions raised on behalf of the petitioners was that the respondent was not the owner of the suit room.

3. The Court of Civil Judge Junior Division at Vasco (Trial Court) framed 5 issues in the aforesaid application and found in favour of the respondent on all the said issues. It was found that the respondent had proved that she was the owner of the suit room and that the petitioners were tenants therein. It was found that the petitioners were liable to pay the arrears of rent. Accordingly, by judgment and order dated 31.10.2017, the trial Court partly allowed the application for eviction filed by the respondent, thereby directing the petitioners to vacate the suit room and to pay the arrears of rent.

4. Aggrieved by the same, the petitioners filed rent appeal before the District Court. The petitioners filed an application before the aforesaid appellate Court seeking to place on record certain additional documents obtained under the Right to Information Act, 2005. It was claimed that the said documents were necessary to support the claim of the petitioners that the

respondent was not the owner of the suit room. By judgment and order dated 30.04.2019, the appellate Court dismissed the appeal. It was held that the additional documents sought to be produced by the petitioners were not necessary to decide the appeal.

5. Aggrieved by the aforesaid order, the petitioners have filed the present petition, in which notice was issued by this Court on 29.05.2019. The respondent entered appearance and contested the present petition.

6. Ms. Susan Linhares, learned Counsel appearing for the petitioners submitted that the appellate Court committed a grave error in not permitting the petitioners to place on record the additional documents, which included electricity bills and other such documents indicating that the respondent was not the owner of the suit room. According to the petitioners, there was enough material available on record to show that there was confusion regarding the particulars of the suit room bearing no.243 or 243/C. It was further submitted that the finding regarding arrears of rent on the part of the petitioners was also not supported by material on record. It was submitted that when there was complete confusion as regards ownership of the suit room, it could not be held that the petitioners were in arrears of rent. It

was further submitted that the petitioners had indeed filed an application under Section 18 of the said Act for depositing the rent thereby demonstrating her bonafide. On this basis, it was submitted that the impugned orders deserved to be set aside.

7. On the other hand, Mr. A.D. Bhobe, learned Counsel for the respondent submitted that the aforesaid contention regarding alleged confusion about the exact number of the suit room was a contention not supported by material on record. It was submitted that there was no basis for the petitioner to have disputed the ownership of the respondent in the suit room. Attention of this Court was invited to the Leave and License Agreement executed between the parties wherein the suit room was specifically stated to be located in house no.243. It was further submitted that the petitioner herself had initially paid rent to the respondent in pursuance of the said Leave and License Agreement and that therefore, there was no scope for the petitioners to have raised bogie of confusion regarding the details of the suit room or about the ownership of the suit room.

8. Heard learned Counsel for rival parties and perused the material on record.

9. As regards the contention raised on behalf of the petitioners pertaining to the doubt expressed regarding ownership of the suit room, perusal of the Leave and License Agreement makes it very clear that the petitioners themselves had entered into the said agreement knowing full well that they were occupying the room in house no.243 as the suit room and that the agreement was executed between the petitioners and the respondent wherein the respondent was recognised as the owner of the property. It is also an admitted position that the petitioners filed the application under Section 18 of the said Act, for depositing rent, wherein they themselves contended that the respondent was the owner. Therefore, it becomes clear that there was no material available on record for the petitioners to have contended that the respondent was not the owner of the suit room.

10. Even otherwise, having conceded that the petitioners had paid rent amounts to the respondent in pursuance of the Leave and License Agreement, it follows that the respondent was recognised as the landlady by the petitioners. Viewed from this angle, it becomes clear that the aforesaid ground was not available for the petitioners to have resisted the eviction application. As regards arrears of rent, the two Courts below have concurrently found on facts that the petitioners were indeed in arrears of rent and that the eviction decree could be granted on the said ground.

Apart from this, even when there was an order passed on the application filed by the petitioners for depositing rent under Section 18 of the aforesaid Act, admittedly, the petitioners failed to comply with the said order. Therefore, mere filing of the application under Section 18 of the said Act would not enure to the benefit of the petitioners. As regards the appellate Court having rejected the prayer on the part of the petitioners to place on record additional documents, this Court has perused the finding rendered by the appellate Court. It is found that the reasons given by the appellate Court in the impugned judgment and order, rejecting the application for placing on record additional documents, are germane and do not deserve any interference.

11. In view of the above, Writ Petition is found to be without any merit. Accordingly, it is dismissed. Pending applications, if any, stand disposed of.

MANISH PITALE, J.