

WRIT PETITION NO. 2054 OF 2021

Nitin Madhukar Chaudhary & Anr .. Petitioners
Versus
Smt.Sushila Madhukar Chaudhary
and anr .. Respondents

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Mr. Shubham H. Misar for the petitioners.
Mr.B.K. Barve i/b B.K. Barve & Co. for the respondent.
Smt.V.S. Nimbalkar, AGP for the State.

CORAM: RAVINDRA V. GHUGE, J.
DATED : 20th JANUARY, 2022

P.C:-

1 On 4th January 2022, I had passed the following
order :-

“1. The learned Advocate for the petitioners make a statement, on instructions from the petitioners present in his office for the virtual court hearing, that respondent No.1 may retain the family pension amount as well as the rent received with reference to another property. In addition, the petitioners would pay an amount of Rs.10,000/- per month as maintenance to respondent No.1 and would vacate the premises i.e. AL-1/288, Sector 05, Police Mitra Apartment, Airoli, Navi Mumbai, on or before 31/05/2022. So also, the petitioners are willing to

give additional medical expenses as and when required, to respondent No.1. He would enter a specific affidavit making such statement within five days.

2. List this petition for passing orders on 13/01.2022”

2 Pursuant to the above, the petitioner i.e. Nitin Madhukar Chaudhary has filed an affidavit on his behalf and on behalf of the other petitioners, dated 13/1/2022. The affidavit is in tune with the order passed by this Court reproduced above.

3 In addition thereto, the petitioner has put forth a request in the form of paragraph no.6, 7 and 8 as under :-

“6. I further humbly submits that, I may be permitted to shift my family to Room No.162 as Respondent No.1 is interested in residing in Room No.288. As room No. 162 is vacant to the best of my knowledge. Since my both the children are studying in the school which is in the same vicinity.

7. I further say that in the Mediation held before the Mediator the Respondent No.1 and my three sisters had indicated that they would like to dispose of both the Rooms i.e. Room No.288 and Room No.162. I submit that if the Respondent No.1 desires to sell the Flats I may be given preferential right to purchase Room No. 162 and/or Room No. 288 from Respondent No. 1 and my sisters at the prevalent market value. I say and submit that while Respondent No.1 was residing with me I had taken loan of Rs.7 Lakhs and renovated the entire Room No.288 after the tenant occupying the said Room vacated.

8. I say that, it is an admitted position of the fact that Respondent No. 1 is a widow of a husband who died working in the Police Department and Respondent No. 1 being the widow of Husband working in Police Department. I was therefore given the job after I completed my schooling. The Respondent No.1 mother gets the family pension of Rs 14,000/- per month and all the medical facilities from the Police Department and I am ready and willing to contribute towards the medical expenses if required.

4 Shri Barve, the learned Advocate representing the respondent mother submits that besides the petitioner son, there are three biological daughters. Room No.162 is an ancestral property and any sale would be subject to the consent of all the blood relatives.

5 Taking into account the above situation, I called upon the learned Advocate for the petitioners to consider as to whether he would prefer to continue to reside in Room No.288 till 31/5/2022 and during this period, take steps for getting his flat admeasuring 925 sq.ft at Thane, vacated, so as to move into the said flat in Thane with effect from 1/6/2022. Simultaneously, the admission of his daughter and son could be secured in a school situated in the vicinity of his flat.

6 The learned Advocate for the petitioner submits, on instructions, that the petitioners are willing to continue to reside

in Room No.288 till 31/5/2022. In the mean while, the petitioner no.1 would take steps for evicting the tenant from the flat at Thane on or before 31/5/2022. He would take steps for securing the admission of his children in a School at Thane for the Academic Year 2022-23. Coupled with this submission which is recorded, he has requested that if Room No.162 and 288 are sold by the sole respondent, the petitioner is willing to pay the price of the said rooms at the market rates and he should be given a preferential right. The learned Advocate for the respondent submits that there would be no objection to sell the Room No.162 and 288 to the petitioner subject to the market price being paid.

7 Considering the above statements which have been recorded as having been made to this Court, this Petition is disposed off with the following directions :-

- (a) The statement made by the petitioner as regards the payment of maintenance amount and those statements recorded in the order of this Court reproduced above and in the affidavit dated 13/1/2022, would be maintained.
- (b) The petitioner would continue to occupy Room No.288 till 31/5/2022 and shall vacate the said room peacefully on or before 5.00 p.m on 31/5/2022.

(c) While selling Room No.162, the respondent would give first priority/preference to the petitioner so as to enable him to pay the market price and purchase Room No.162.

(d) In the event the respondent may also desire to sell Room No.288 which is a self acquired property, she is willing to offer first preference in the sale to the petitioner, subject to the market price being paid by him.

RAVINDRA V. GHUGE, J