

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3347 OF 2022

Shri. Padam s/o Roshanlal Ghai and others

.Vs.

Dr. Balasaheb s/o Wasudeorao Motghare

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. A. Sambaray, Advocate for respondent.

CORAM : MANISH PITALE, J.

DATE : 27/09/2022

When the petition is called out for hearing,
none appears on behalf of the petitioners.

2. Mr. Sambaray, learned counsel appears on Caveat on behalf of respondent. He has brought to the notice of this Court that identical Writ Petition bearing Writ Petition No.967 of 2022 concerning adjacent shop block wherein the petitioners were tenants and the parties were same, this Court by order dated 07.09.2022 had dismissed the said writ petition imposing costs of Rs.1,00,000/- on the petitioners. In the said order, this Court has taken note of the fact that the Hon'ble Supreme Court had imposed costs of Rs.50,000/- and specific directions had been given to vacate the suit shop in that case by 04.03.2021. Yet, the petitioners had continued in possession of the property and raised frivolous objections before the executing Court.

3. Mr. Sambaray, learned counsel has brought to the notice of this Court the fact that present writ petition is identical, the only difference being the shop block in respect of which the present writ petition has arisen. It is also brought to the notice of this Court that the Hon'ble Supreme Court while dismissing the Special Leave Petition, which was taken note of in paragraph 5 of the order dated 07.09.2022 passed in Writ Petition No.967 of 2022, had considered identical issues sought to be raised on behalf of the petitioners. The facts pertaining to the events and journey of the litigation in the present petition is identical to Writ Petition No.967 of 2022, thereby indicating that the Hon'ble Supreme Court had imposed costs in the context of the litigation arising in the present writ petition also.

4. There being no material difference between the two matters, the learned counsel appearing for the respondent on Caveat submits that the present writ petition may also be kindly dismissed.

5. It is further brought to the notice of this Court that the petitioners are applying for adjournments before the executing Court despite the order dated 07.09.2022 passed by this Court in Writ Petition No.967 of 2022, on the ground that the present writ petition is pending before this Court. Copy of one such application

seeking adjournment on behalf of the petitioners dated 21.09.2022 is handed over by the learned counsel appearing for the respondent on Caveat. Copy of the application for grant of adjournment submitted before the executing Court on behalf of the petitioners is taken on record and marked as "X". Perusal of the same shows that the petitioners are indeed seeking to retain possession of the suit shop block only on the basis of the present writ petition remaining pending.

6. A perusal of the writ petition and the grounds raised therein, as also the documents filed therewith, shows that in this case also identical frivolous grounds were raised before the executing Court, objecting to the execution of the decree. The issues sought to be raised in this writ petition have been already dealt with in Writ Petition No.967 of 2022, wherein it was found that the petitioners had left no stone unturned to cling to the suit property, despite specific orders passed by this Court and the Hon'ble Supreme Court to hand over vacant possession to the respondent. It is relevant that the respondent is a senior citizen, who has been waiting for the fruits of the decree for years together.

7. Even today, when the writ petition is called out, none has appeared on behalf of the petitioners.

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8. In view of the above, the writ petition is dismissed and the petitioners are directed to vacate the suit shop premises within four weeks from today.

JUDGE

Sarkate