

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1670 OF 2022

Bhagwantibai Kanyalal Hemnani.

...Petitioner.

Versus

The State of Maharashtra and Others.

..Respondents.

Mr. Minal Chandnani and Mr. Mayur Parwani i/b Jaiwant Chandnani & Associates for the Petitioner.

Mr. P. G. Sawant, AGP for Respondent-State.

Mrs. Pooja Joshi Deshpande for respondent No. 6.

Coram : Sharmila U. Deshmukh, J.

Date : March 24, 2023.

P. C. :

1. Heard. The petition takes exception to the *ex parte* stay order dated 22nd November 2021 passed by respondent No.3–the Authorised Chief Settlement Commissioner upon a complaint by respondent No.7. The petitioner is a subsequent transferee of the subject property which is subject matter of the stay granted by the impugned order dated 22nd November 2021.

2. The admitted position is that the petitioner was not made party to the proceedings and notice of hearing was also not issued to him.

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3. Learned counsel for the petitioner submits that the petitioner is in occupation and possession of the subject property and has vested rights in the subject property which is being affected by reason of the stay order passed.

4. Learned AGP supports the impugned order. He submits that no interference is warranted.

5. Considered the rival submissions. It is not in dispute that the petitioner is in possession of the subject property. The principles of natural justice require that notice be served upon the petitioner, who has acquired vested interests in the property, in order to enable him to contest the complaint filed by respondent No.7. Considering that no opportunity of hearing was given to the petitioner, I deem it appropriate to quash and set aside the impugned order dated 22nd November 2021 with a direction to respondent No.3 to decide the application / complaint of respondent No.7 afresh, after hearing the petitioner and all other concerned parties. The petitioner to appear before respondent No.3 on 10th April 2023 after giving notice to respondent No.7-original complainant. After hearing all concerned parties, respondent No.3 to

decide the complaint of respondent No.7 afresh on its own merits and in accordance with law.

6. Writ petition is disposed of with the aforesaid directions.

[Sharmila U. Deshmukh, J.]