

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6962 OF 2022

Praveen Chopda

(Since Deceased)

Latesh Chopda & Anr.

...Petitioners

Versus

The State Of Maharashtra & Ors.

...Respondents

Mr. Vaibhav v. Ugle for the Petitioners.

Mr. C. D. Mali, AGP for Respondent Nos. 1 to 3.

Mr. S. R. Dubey for Respondent Nos. 4 to 6.

CORAM : SHARMILA U DESHMUKH, J.

DATE : DECEMBER 20, 2023

P. C. :

1. The Petition has been instituted challenging the order dated 28th April, 2022 rejecting the Revision Application of the Petitioner preferred against the order passed by the Competent Authority dated 24th January, 2022 allowing the Application and directing the Petitioners to vacate the peaceful possession of the license premises.

2. During the hearing of the proceedings, learned counsel for the Petitioner submitted that pursuant to an agreement of sale which was entered into by the Petitioners in the year 2004 with the Respondent No.

7 who was a developer, the suit premises i.e. Flat No. 604 was permitted by the Respondent No. 7 to be occupied by the Petitioner as temporary accommodation till the possession of the flat under the sale agreement was handed over. The admitted position is that Flat No. 604 belongs to the Respondent Nos. 4 to 6 and the Respondent No. 7 was a licensee of the Respondent Nos. 4 to 6 and had no semblance of ownership right in respect of the suit premises which he has generously handed over to the Petitioners for their occupation. This premises is being occupied by the Petitioners since the year 2004 and continues to be occupied till today without payment of a single farthing to the original owner of the premises. The less said about the plight of the original owner the better. For the past 20 years, the premises owned by the Respondent Nos. 4 to 6 have been handed over to a third party who has no right to remain in occupation of the premises and continues blatantly to occupy the premises without payment of any compensation since last about 19 to 20 years.

3. This is sought to be supported by the learned counsel for the Petitioners by submitting that he has paid the sale consideration to the Respondent No. 7-Developer and as such, he has a right to continue in the premises till he gets possession of the premises which the Respondent No. 7 had agreed to sell to the Petitioners. The remedy of the Petitioners,

if any, is against the Respondent No. 7-Developer to seek specific performance of the agreement. However the non performance of the obligations by the Respondent No. 7-Developer, cannot create any right in the Petitioners to occupy the premises for the past 19 to 20 years and deprive the original owner of the beneficial enjoyment of his own property. As the premises were neither handed over nor any compensation was paid, the eviction application came to be filed against the Respondent No. 7-Developer in which pursuant to the directions given by the Competent Authority, the present Petitioners were arrayed as Respondents. It was submitted by learned counsel of the Petitioners that no opportunity of being heard was being given. However, the judgment of the Competent Authority would indicate that the Petitioners did not examine themselves as witnesses.

4. The Competent Authority after consideration of the evidence on record, allowed the eviction application as against which the revision filed has been dismissed. The only contention which has been raised is that, they are entitled to remain in possession without payment of any monthly compensation and that the proceedings cannot be instituted against them by the Respondent Nos. 4 to 6 who are the original owners.

5. At the outset, this Court posed a query to the learned counsel for the Petitioner as to whether the Petitioners are willing to deposit certain

amount towards the monthly compensation as they are enjoying the property belonging to the third party without payment of any compensation to which learned counsel, on instructions, submit that the Petitioners are not willing to pay any amount towards the monthly compensation. In my opinion, this is nothing but sheer abuse of the process of law and by hearing the Petitioners in the present Petition, I do not intend to continue with this abuse of law. The Petitioners are claiming through the original licensee whose license has expired by efflux of time.

6. Considering the conduct of the Petitioners that neither they will vacate the premises nor they will pay any monthly compensation for their occupation to the original owner, I am not inclined to interfere with the well reasoned orders of the Competent Authority and the Revisional Authority.

7. Petition stands dismissed.

(SHARMILA U. DESHMUKH, J.)