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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10492 of 2023
WITH
INTERIM APPLICATION NO.457 OF 2024
WITH
INTERIM APPLICATION NO.828 OF 2024

Umesh Ravavtar Sharma

... Petitioner

Versus

Shankuntala Ramavtar Sharma

...Respondent

Mr.Ramesh Jaiswal i/b Ms.Sujata Seth for the Petitioner
Mr.Manoj G. Agre for the Respondents

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 13 February, 2024

P.C.

1. After this Petition was heard for sometime, learned Counsel for the Petitioner, on instructions, states that the Petitioner and his family members are ready and willing to unconditionally vacate the subject premises and handover the possession to Respondent/Mother on or before 30th May 2023. Statement as made on behalf of the Petitioner is accepted. The Petitioner to place on record an undertaking to this effect within a period of one week and a copy of the same be also furnished to the Advocate for the Respondents.

2. We keep open all the contentions of the Petitioner to assert legal rights in respect of the tenement but not during the life time of the mother, as held by this Court recent in *Dinesh Bhanudas Chandanshive vs. State of Maharashtra & Ors. in Writ Petition No.7392 of 2021 decided on 30th January 2024*, wherein the Court, in paragraph 22, observed thus:

“22. As seen from the above decisions, it is quite settled that during the life time of the parents, the children cannot assert any legal right whatsoever in respect of the property of their parents claiming exclusive ownership or possession of the parents property. The proper remedy for the petitioner would be to file a suit in the event the other brothers are also claiming any right in the premises and this cannot be during the life time of the mother.”

3. The Petitioner is also directed not to create any third party right whatsoever or part with possession of the said premises till 30th May 2024.
4. Writ Petition stands disposed of accordingly.
5. Interim Applications would also not survive and stand disposed of.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)