



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

WRIT PETITION NO.2605 OF 2024

(Sanjeev V. Chimote (HUF) and others .vs. Bharat Petroleum Corporation Limited and others)

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.M. Sharma, Advocate for Petitioners,
Mr. S.W. Sambre, Advocate for Respondent No.1,
Mr. R.R. Chhabra, Advocate for Respondent Nos.2 and 3.

CORAM : N.R. BORKAR, J.
DATE : 13/08/2024.

- . This petition takes exception to the order dated 03-04-2024 passed by the Small Causes Court, Nagpur below Exh.49 in Regular Civil Suit No.201/2014.
2. In a suit filed by the petitioners/lessors for eviction and possession against respondent no.1/lessee, the trial court, by the order impugned, has allowed the application filed by respondent nos.2 and 3 under Order 1, Rule 10 of the Code of Civil Procedure.
3. According to the respondent nos.2 and 3, they are in possession of leased premises as licensee of respondent no.1.
4. The learned counsel for the petitioners submits that the Hon'ble Supreme Court in *Kanaklata Das and others .vs. Naba Kumar Das and others*, reported in (2018) 2 SCC 352, has held

that in a rent proceedings a person who claims through lessee/tenant is not necessary party. It is submitted that the suit is of the year 2014 and is at the stage of evidence. It is submitted that no reason is assigned for moving the application at such a belated stage. It is submitted that the trial court thus erred in allowing the application of respondent nos.2 and 3 for impleadment.

5. On the other hand, the learned counsel for the respondent nos. 2 and 3 submits that respondent nos. 2 and 3 are in possession of the leased premises and are utilizing the leased premises for running petrol pump. It is submitted that by letter dated 28th July, 2023 issued by respondent no.1, respondent nos. 2 and 3 were advised to relocate the petrol pump. It is submitted that when they verified the reason for issuance of such letter, they found that there is a collusion between the petitioner and the respondent no.1. It is submitted that the said apprehension was fortified by the fact that the license of respondent nos. 2 and 3 to operate the petrol pump was terminated. It is submitted that thus the application was filed immediately after receipt of letter dated 28th July, 2023 and even otherwise ground of delay was not raised before the trial Court. It is submitted that even in this petition the said ground is not raised.

6. The Hon'ble Supreme Court in the case of *Nandkishor Savalaram Malu (Dead) through Legal Representatives .vs. Hanumanmal G. Biyani (Dead) through Legal Representatives and others*, has held that in rent proceedings the lessee/tenant is the

only necessary party or/and proper party and none else. A person, who claims through lessee/tenant, is not a necessary party. In my view, ratio of this decision squarely applies to the present case. The order impugned therefore will have to be set aside. The petition is allowed. The order impugned is set aside.

(N.R. BORKAR, J.)

Gulande