

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.792 OF 2025

Vijayalakshmi Co-operative Housing Society Ltd. ...Petitioner

Versus

M/s PR. Sales Corporation & Ors. ...Respondents

Mr. S.S. Patwardhan i/by Mr. Akshay Hardas, Advocate for Petitioner.

CORAM: MADHAV J. JAMDAR, J.

DATED : 27th JANUARY 2025

P.C.:

1. Heard Mr. Patwardhan, learned Counsel appearing for the Petitioner.

2. The challenge in the present Writ Petition is to the Order dated 25th November 2024 passed by the learned District Judge- 16 Pune below the application filed by the Respondents to bring themselves on record as legal heirs of the Applicant No.1, who died on 16th August 2024. By the impugned Order, the said Application seeking to bring on record heirs of original Applicant No.1 has been granted.

3. It is the main submission of Mr. Patwardhan, learned Counsel for the Petitioner that the right to sue does not survive under Order 22 of Code of Civil Procedure as license is a personal right. He further submitted that even under Section 7 (15)(d) of the Maharashtra Rent Control Act, 1999 (“Rent Act”) also the case of the Respondents is not covered. Thus, he submitted that the impugned order be quashed and set aside.

4. Before considering the submissions of Mr. Patwardhan, learned Counsel for the Petitioners, it is necessary to set out certain factual aspects:-

(i) The present Petitioner entered into an agreement dated 23rd December 1991 and further agreement dated 2nd January 1997 with Surat Narayan Rane, Proprietor of M/s PR. Sales Corporation.

(ii) The Petitioner-Society filed Suit for recovery of possession bearing Civil Suit No. 202 of 2010.

(iii) In the said Suit, decree of possession has been passed on 3rd December 2018 by the learned 6th Additional Judge, Small Causes Court & Joint Civil Judge, S.D., Pune.

(iv) In the Appeal, which has been filed challenging the said Judgment and Decree, delay condonation application bearing Civil Misc. Application No. 869 of 2024 is pending.

(v) Surat Narayan Rane, Proprietor of M/s P.R. Sales Corporation passed away on 16th August 2024 and therefore the Application dated 10th September 2022 was filed in said Misc. Application No. 869 of 2024 for bringing on record the heirs and legal representatives of deceased- Surat Narayan Rane and the same has been allowed by the learned District Judge- 16, Pune by the impugned Order dated 25th March 2024.

5. It is an admitted position that the Suit has been filed for possession. The Respondents are in physical possession of the suit premises. Admittedly Mr. Suraj Narayan Rane was in possession of the suit premises on the basis of Agreement dated 23rd December 1991 and subsequent Agreement dated 2nd January 1997.

6. It is the contention of the original Defendant- Surat Narayan Rane i.e. Proprietor of P.R. Sales Corporation that the license to occupy the suit premises was granted by the Plaintiff is irrevocable

license. Thus, it is clear that right to sue survives to the legal heirs and representatives. Reliance on Section 7(15)(d) of the Rent Act is also misplaced as what is contemplated under the said provision is that in relation to any premises, when the tenant dies, whether the death occurred before or after the commencement of this Act, any member of the tenant's family were using the premises for any such purpose, with the tenant at the time of his death, or, in the absence of such member, any heir of the deceased tenant, as may be decided, in the absence of agreement, by the court is the tenant.

7. Thus, no interference in the impugned order is warranted under Article 227 of the Constitution of India. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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