



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5298 OF 2022

- PETITIONER** :- 1 Shri Rajendra Jagatrao Sangole, aged about 51 Years, Occupation Business, R/o Vidarbha Mill Colony, Juni Chawl, Achalpur, Tahsil Achalpur, District Amravati. M.NO. 9623229133
- 2 Shri Ashish Umeshchandra Wajpai, aged 42 years, Occupation Business, R/o C/o Mahalaxmi Tyres and Automobiles, Near Bus Stand, Infront of Kashyap Petrol Pump, Paratwada, Tahsil Achalpur, District Amaravati. Maharashtra. M.No. 9422157791

(The original Defendants No.1 and 2 Respectively)

..VERSUS..

- RESPONDENT** :- The Vidarbha Co-operative marketing Committee Ltd., Regd. No.702, Ganeshpeth Nagpur through its Factory Manager Vidarbha Cooperative Marketing Society Ginning and Pressing Factory, Achalpur by its Manager Shri Rajendra Ajabrao Kale, aged about 48 Years R/o Paratwada, Tahsil Achalpur District Amaravati.

(Original Plaintiff)

Mr. K. B. Zinjarde, Advocate for Petitioners.

Ms. Dhanashree Bhoyar Advocate a/w. Mr. G.O. Gadge, Advocate h/f. Mr. A.P. Tathod, Advocate for the Respondent.

CORAM : ROHIT W. JOSHI, J.

DATE : 03.11.2025

ORAL JUDGMENT :

1) **Rule.** Rule is made returnable forthwith. Heard finally with consent of learned counsel for the respective parties.

2) It is not in dispute that the suit property was initially let out by the respondent/plaintiff to petitioner No.1/original defendant No.1. The original defendant No.1 was running a shop in the suit premises as a tenant of respondent and was doing business of sale of agricultural products. Somewhere around the year 2005, defendant No.2 was conducting business under the name and style as “Mahalaxmi Tyres and Automobiles” in the suit property.

3) It is the case of the plaintiff that defendant No.2 is inducted as a sub-tenant by defendant no.1 without the permission of the plaintiff/landlord. As against this, the case of the defendants is that defendant No.2 was inducted as a partner by defendant No.1 and that the business was being run by defendant Nos.1 and 2 together in partnership.

4) This contention of defendant No.2 being a partner of defendant No.1 is disbelieved by the learned Trial Court. The learned Trial Court has found that the license under Shops and Establishments Act for the business of Mahalaxmi Tyres and Automobile is issued in the name of defendant No.2 alone. The learned Trial Court has also recorded that defendant Nos.1 and 2 did not produce any documentary evidence in the nature of partnership deed or any other evidence to demonstrate that defendant No.2 was inducted as a partner by the defendant No.1. The learned Trial Court has, therefore, accepted the contention of the plaintiff that defendant No.1 had inducted defendant No.2 as a sub-tenant in the suit premises. Admittedly, defendant No.1 has not obtained the written consent of the plaintiff for induction of defendant No.2 as a sub-tenant. This is a ground for eviction under Section 16(1)(e) of the Maharashtra Rent Control Act, 1999.

5) Aggrieved by the aforesaid decree for eviction dated 02.05.2016, the defendants preferred appeal, being Regular Civil Appeal No.92 of 2016. The said appeal came to be dismissed vide judgment and decree dated 10.02.2022.

6) The learned First Appellate Court has confirmed the findings recorded by the learned Trial Court with respect to

subletting. The learned First Appellate Court has dealt with the legal principle that, whereas induction of a partner by a tenant by itself does not amount to subletting, in case where the tenant is unable to prove the partnership, an inference of subletting will have to be drawn.

7) In view of the above, the learned First Appellate Court has confirmed the decree for eviction on the ground that subletting without permission of landlord.

8) Apart from this, the contention of Mr. Zinjarde, learned Advocate for the petitioners is that the defendants had sufficiently established that defendant No.2 was inducted as a partner by defendant No.1 and that the business was being run in partnership. He further contends that defendant No.2 is running business in the suit premises since 2005, while the suit for eviction is filed in the year 2011.

9) Having perused the findings recorded by both the learned Courts, it appears that license for running the business stands in the name of defendant No.2 alone. It also needs to be mentioned that earlier the defendant No.1 was dealing with business of sale of certain agricultural products. As against this, the business done by defendant No.2 is of sale of automobile parts

and tyres. The defendant No.1 and 2 did not produce any partnership deed on record. Perusal of the judgments will also demonstrate that particulars of the alleged partnership are also not placed on record. There is no evidence on record to infer any agreement or arrangement of partnership *inter se* between defendant Nos. 1 and 2. Since the defendants are coming up with a positive case of partnership, the burden of proving the same obviously lay on them. The defendants have miserably failed to discharge the said burden.

10) In view of the above, in the considered opinion of this Court, no case for interference is made out.

11) Accordingly, the writ petition is **dismissed**. Rule is discharged, with no order as to costs.

(ROHIT W. JOSHI, J.)

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