

**ORDER BELOW EXH. 65 IN PPE APPEAL NO. 12/2022**

1] This is an application for appointment of receiver filed under order XL of Cr.P.C. by Satish Ramdayal Mantri. It is contended that being aggrieved and dissatisfied by the eviction order dtd. 10/11/2021 passed by respondent no. 2 appellant has preferred this appeal.

2] It is pointed out that mother of appellant i.e. late Mathurabai Ramdayal Mantri was granted with railway land bearing Plot No. 78, admeasuring to the extent of 19.38 sq. mtrs. and shed constructed thereon in S.No.3, of village Ghorpadi, Tal.Haveli, Dist.Pune. Late Mathurabai Ramdayal Mantri expired on 12/11/2011 and after her death appellant being her legal heir is in possession of the said property and is running the business in the said premises. Appellant had paid all the taxes and fees due towards him. It is contended that the appellant has paid the advance rent for the period starting from 1/4/2021 till 31/3/2022. But in the month of June 2021 railway officials visited the shop and inquired about Mathurabai Ramdayal Mantri. Appellant told railway officials about her death and about his application for change of name with railway officials. Thereafter suddenly respondent no. 2 i.e. The Estate officer Central Railway, Pune division had issued a notice to appellant under sub section (1) and clause (b)(ii) of sub section 2 of section 4 of

Public Premises Act, 1971. As per the notice appellant attended the Court of respondent no. 2 being the legal heir of Mathurabai Mantri but he was not given any opportunity of hearing stating the reason that he is unauthorized occupant. Thereafter respondent no. 2 passed order dtd. 10/11/2021 under sub section (1) of Sec. 5 of the Public Premises(Eviction of Unauthorised occupants)Act,1971 against the appellant and asked to vacate the premises within 15 days of the date of publication of the said order. It is further contended that the order of respondent no. 2 does not mention or disclose any specific schedule of property which is to be vacated and therefore order of eviction is null and void and therefore the order is liable to be set aside. The appeal is filed in time therefore appellant has prayed to set aside the order passed by the Estate officer on 10/11/2021.

3] Respondents have resisted the application by filing reply at exh. 66 contending that deceased Mathurabai Mantri was allotted with the disputed premises but after her death legal heirs of Mathurabai Mantri have not informed respondent about her death and he has not executed lease and license of disputed property with respondent. Hence according to respondent legal heir of deceased Mathurabai Mantri is unauthorized occupant over disputed premises and he has no authority to continue his possession with said property. It is contended that appellant is paying the annual rent of the property to the respondents but as per

respondent no. 2 said amount is deposited towards unauthorized occupancy charges. It is contended that the land in question is required by PMC for construction of road over bridge and same is to be handed over to PMC. Hence it is contended that respondents have never told that the land in question is required to PMC hence license fees bills are not issued. With the help of those contentions respondents have prayed to allow the application.

4] It is pertinent to note that order XL of CPC provides appointment of receiver and it provides that (1)Where it appears to the Court to be just and convenient, the Court may by order--

(a) appoint a receiver of any property,

(d)confer upon the receiver all such powers, as to bringing and defending suits and for realization, management, protection, preservation and improvement of the property, the collection of rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Court thinks fit.

5] Appellant's advocate argued that respondents are not issuing the bills for license fees therefore, appellant is required to file this application for appointment of Court receiver or for directions to respondent to accept the license fees. It is pertinent to note here that respondents have

alleged that LR of appellant is unauthorized occupant of the property in question. Hence, I find that no question arises of directing the respondent to accept the license fees, issue the demand bills for license fees and to accept the license fees from LR of deceased Mathurabai Ramdayal Mantri.

6] Considering the fact that this is the appeal under PPE Act, no question arises of appointing Court receiver in this case. Hence, I pass following order.

**ORDER**

Application exh. 65 stands rejected.

Date : 13/06/2024.

[ K.P .Nandedkar ]  
District Judge-1,  
Pune.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file judgment are same words for words as per original Judgment.

Name of steno : V.A.Nagarkar (Stenographer Grade 1)

Name of the Court : K.P.Nandedkar, District Judge -1 & Additional Sessions Judge, Pune

Date of Order : 13.06.2024

Order signed by P.O. on: 15.06.2024

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