

ORDER BELOW EXH. 65 IN PPE APPEAL NO. 13/2022

1] This is an application for appointment of receiver filed under order XL of Cr.P.C. by Raziya Ebrahim Sayyad. 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 husband of appellant i.e. late Ibrahim Ali Sayyad @ Syed Ibrahim Phulwale was the lessee in the property i.e. land bearing Plot No. 26, admeasuring to the extent of 25.00 sq. mtrs and shed constructed thereon in S.No. 3 of village Ghorpadi, Tal.Haveli, Dist. Pune. Ibrahim Ali Sahyad @ Syed Ibrahim Phulwale expired on 12/07/2020 and after his death appellant being his 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 her. It is contended that the appellant has paid the rent till March 2022. 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 Ibrahim Ali Sayyad but she was not given any opportunity of hearing stating the

reason that she 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. 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 Ibrahim Ali Sayyed @ Syed Ibrahim Phulwale was allotted with the disputed premises but after his death legal heirs of Ibrahim Sayyed have not informed respondents about his death and he has not executed leave and license of disputed property with respondent. Hence according to respondents legal heir of deceased Ibrahim Sayyed is unauthorized occupant over disputed premises and she has no authority to continue her 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 reject 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 Ibrahim Ali Sayyed.

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: 19.06.2024
Order uploaded on : 19.06.2024