

ORDER BELOW EXH. 66 IN PPE APPEAL NO. 04/2021

1] This is an application for appointment of receiver filed under order XL of Cr.P.C. by deceased Fareed Mohammad through LR Mohamad Fareed. 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 deceased Fareed Mohammad was granted with railway land at Ghorpadi vide order dtd. 8/4/1977 and since then Fareed Mohammad was running a meat stall in said property. He had paid all the taxes and fees due towards him. It is contended that vide bill dtd. 1/4/2021 amount of Rs. 29711/- is paid by LR of Fareed Mohammad and thereafter eviction order dtd. 10/11/2021 is passed by respondent no. 2. It is contended that after death of Fareed Mohammad L.R. Mohammad Fareed filed application for change of name. In his lifetime Fareed Mohammad had continuously paid license fees to respondents and thereafter his L.R. also paid the license fees till March 2022 and he is ready to pay further license fees as legal heir of deceased Fareed Mohammad, as provided by section 13 of PPE Act.

3] It is contended that respondent no. 2 has issued

eviction notice and passed eviction order without considering guidelines issued by Govt. of India on 5/4/2004 and respondent have filed application before this Court stating that disputed land at LC gate no. 586 of Pune-Miraj railway line at Ghorpadi, Pune is given to Municipal Corporation, Pune vide letter dtd. 12/10/2022 and said 1500 sq. meter land is given for construction of road over bridge. It is contended that legal heir of deceased Fareed Mohammad requested respondent to accept license fees however respondent told him that disputed premises is handed over to Municipal Corporation therefore bills cannot be issued on appellant. It is contended that appellant is ready to deposit the license fees and hence he has contended that Court receiver may be appointed for collection of the license fees of this disputed premises from appellant and he has also alternatively prayed to give direction to respondent to accept the license fees of disputed premises.

4] Respondents have resisted the application by filing reply at exh. 67 contending that deceased Fareed Mohammad was allotted with the disputed premises but after his death legal heirs of Fareed Mohammad have not informed respondent about his death and they have not executed leave and license of disputed property with respondent. Hence according to respondent legal heirs of deceased Fareed Mohammad are unauthorized occupants over disputed premises and they have no authority to

continue their possession with said property. It is contended that amount of Rs. 29711/- paid by L.Rs. of deceased Fareed Mohammad is deposited in licence fees but said amount is deposited towards unauthorized occupancy charges. It is pointed out that L.R. of Fareed Mohammad has filed this application to mislead the court even though he is unauthorisedly occupying the premises. 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.

5] 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.

6] 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 Fareed Mohammad.

7] 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. 66 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: 14.06.2024
Order uploaded on : 14.06.2024