

SUPREME COURT OF INDIA

Subhadra Ankush Kshirsagar and Others

Vs

State of Maharashtra and Others

Appeal (Civil) 2653 of 2007

(Tarun Chatterjee and P. K. Balasubramanyan, JJ)

15.05.2007

JUDGMENT

P. K. BALASUBRAMANYAN, J.

1. Leave granted.

2. This appeal by the petitioners in Writ Petition No. 1408 of 2005 on the file of the High Court of Bombay challenges the interim order passed by the High Court vacating the ad interim order for maintenance of status quo granted earlier by that Court. The appellants claim to be the wives of police personnel to whom chawls had been allotted as their quarters in Worli. According to the appellants, the State Government had taken a decision to transfer the tenancy rights of Government employees in occupation of chawls to their wives and in that context the wives of retired police personnel could not be evicted from the service quarters allotted to the policemen. In that writ petition, the appellants had claimed an interim order restraining the respondents from evicting the family members of the retired police personnel and of those police personnel who are not in service. The contesting respondents resisted the application by pointing out that the police personnel are allotted service quarters without rent as part of their service conditions and their occupation is governed by Section 31 of the Bombay Police Act. It was also contended that considering the nature of the service to be rendered by police personnel employed in the city and the special duties

assigned to them, it was necessary for the personnel to reside within the city so as to enable them to attend to emergent calls of duty as and when needed and the available quarters with the police department was much less than the quarters that were needed and it was in that context that those who are not entitled to continue to occupy were sought to be evicted. It was also pointed out that the Government order relied on did not apply to the buildings in question and that the buildings in question are under the control of the police department, and that no case has been made out for any relief to the appellants and in any event no ground existed for granting any interim order as sought for by them

3. The Division Bench of the High Court, on a consideration of the relevant materials, in the light of the pleas raised by the contesting respondents found no reason to maintain the ad interim order of status quo earlier granted and hence vacated the order protecting the rights of the appellants, in case the premises were sought to be commercially exploited by the Government. It is this order refusing interim relief to the appellants as sought for by them that is challenged in this appeal.

4. Learned counsel for the appellants relied on the order marked P-1 and certain other subsequent orders to contend that the appellants have a prima facie right as wives of retired police personnel to have the tenancy transferred to them. But, in the light of the specific plea put forward in the counter affidavit filed on behalf of the contesting respondents and the facts detailed therein with particular reference to paragraphs 3 and 4 thereof, we are of the view that the High Court was justified in holding that the appellants have not made out a prima facie case for grant of an interim relief to them as sought for by the appellants. In the circumstances, we are satisfied that the High Court was justified in refusing interim relief to the appellants except as indicated in the order under challenge.

5. We have desisted from discussing the questions argued before us further, lest it prejudices the parties in the final disposal of the writ petition filed by the appellants before the High Court. Suffice it to say that we are satisfied that no ground is made out for interference with the order passed by the High Court.

6. We therefore confirm that order and dismiss this appeal. The order of status quo granted by this Court on 24.2.2006 will stand vacated. However, we may request the High Court to dispose of the writ petition now pending before it at an early date preferably within three months from the date of production of a copy of this judgment.