

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 918 OF 2015

IN

WRIT PETITION NO. 623 OF 2015

ASHISH DEORAO CHANDEKAR.

... Applicant

Versus

MORMUGAO PORT TRUST, THROUGH ITS
CHAIRMAN AND 2 ORS.,

... Respondents

Mr. S. G. Dessai, Senior Advocate with Mr. Virendra R. Parsekar,
Advocate for the applicant.

Mr. Yogesh V. Nadkarni, Advocate for the respondent nos.1 and 2.

Coram:- F. M. REIS &
C. V. BHADANG, JJ.

Date:- 22nd December, 2015

P.C.

Heard Shri S. G. Dessai, the learned Senior Counsel appearing for the petitioner and Shri Y. V. Nadkarni, the learned Counsel appearing for the respondent nos.1 and 2.

2. This is an application for modification of the order dated 30/09/2015 and also to discharge the undertaking and extending the time limit fixed in the said order to vacate the subject premises.

3. Shri Dessai, the learned Senior Counsel appearing for the applicants states that the petitioner has been occupying the subject premises despite of the order dismissing the petitioner in the year 2011, which is the subject matter of the challenge in the above petition. The learned Senior Counsel further points out that the petitioner would be deprived of any accommodation in case the time

limit fixed by this Court to vacate the premises in terms of the undertaking furnished by the petitioner, is not extended. The learned Senior Counsel further submits that the petitioner was not on Board in the month of November, 2015 and as such, time to vacate the premises be extended and the main petition be fixed for hearing. The learned Senior Counsel, as such, points out that the time be accordingly extended.

4. Shri Y. V. Nadkarni, the learned Counsel appearing for the respondent nos.1 and 2 pointed out that the interim order was passed only to give time to vacate the premises though the petitioner was not entitled to occupy the premises belonging to the respondent nos.1 and 2 as admittedly, he has ceased to be in employment of the respondent nos.1 and 2 from the year 2011. The learned Counsel further points out that though the said orders are challenged to this Court, the question of granting any orders in this application would not arise. The learned Counsel further points out that granting any relief to the applicant in the above application would result in getting an interim relief in the main petition through the back door. The learned Counsel, as such, submits that the application be rejected.

5. Upon hearing the learned Counsel for the parties and on perusal of the record, we find that the question of modifying the order dated 30/09/2015 passed by this Court would not arise at all. In case the petitioner was not on Board in the month of November, 2015, it was open for the petitioner to mention the matter before the Court. Apart from that, the conduct of the petitioner in approaching this Court

belatedly on the eve of the Winter vacation also shows prima facie that the petitioner wants to continue to occupy the premises, which he is not entitled to occupy in law as he no longer is in service of the respondent. Hence, the application is dismissed.

6. Needless to say that in case the petitioner succeeds, the petitioner would be entitled to all the benefits provided by law. Leave to the petitioner to mention the matter for fixing the date for final hearing.

C. V. BHADANG, J.

F. M. REIS, J.

SMA