

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2486 OF 2015

Manik Madhavrao Thorat .. Petitioner
vs.
The Charity Commissioner & Ors. .. Respondents

Mr. P. K. Hushing for Petitioner.

CORAM : M. S. SONAK, J.
DATE: 18 MARCH 2015

P.C. :-

1] This petition challenges order dated 30 August 2014 made by the 5th Joint Civil Judge, Senior Division, Pune dismissing the petitioner's suit as barred under Section 8 of the Bombay Government Premises (Eviction) Act 1955 (said Act).

2] The suit as instituted questions, actions of the respondents under the said Act. Section 8 of the said Act provides that save as expressly provided under the said Act, every order made by the competent authority or the appellate officer under the said Act, shall be final and shall not be called in question in any original suit, application or execution proceedings.

3] The learned counsel for the petitioner contends that the premises in question in relation to which the action under the said Act is proposed to be taken are not '*government premises*' within the meaning assigned to this term under section 2(b) of the said Act. Therefore, according to him, the proceedings under the said Act

are without jurisdiction and consequently there is no bar to maintainability of the suit.

4] Having considered the aforesaid contention, in my judgment, the bar under section 8 of the said Act will still apply. This is because, if the scheme of the said Act is considered, then it is always open to the petitioner to raise such contention before the competent authority under the said Act. In case, the competent authority does not agree with such contention of the petitioner, the said Act further provides remedy by way of appeal. The question of jurisdiction as raised by the learned counsel for the petitioner, is a mixed question of law and fact. The Authorities under the said Act, can always look into such issue and thereafter decide the same in accordance with law.

5] Accordingly, there is no reason to interfere with the impugned order. The petitioner however, would be at liberty to raise all contentions, including the contention that the premises in question are not government premises before the Authorities constituted under the said Act.

6] With the aforesaid observations, present petition is dismissed. There shall be no order as to costs.