

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1093 OF 2015
IN
WRIT PETITION NO. 10382 OF 2010

Tukaram Rambhau Borhade	...	Applicant
in the matter between		
Tukaram Rambhau Borhade	...	Petitioner
vs.		
The Controller of Accommodation & Ors.	...	Respondents

.....

Mr. U.B. Nighot and Mr. J.M. Patil for the applicant.
Mr. A.R. Metkari, AGP for respondent nos. 1 to 3.

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CORAM : M.S. SONAK, J.
DATE : 9th SEPTEMBER, 2015.

P.C.:

1. By this Civil Application, the applicant-original petitioner in the Writ Petition No. 10382 of 2010 seeks for restoration of possession of the suit premises pending the hearing and final disposal of the petition.

2. The petitioner was ordered to compulsory retire from the government service. The petitioner thereupon instituted a suit before the Small Causes Court seeking a declaration that he is the tenant of premises allotted to him by the government, during the tenure of his service. The motion for interim relief in the suit was dismissed. In the

appeal, the Appellate Bench of the Small Causes Court has proceeded to dismiss the suit itself by judgment and order dated 11/11/2010 which is impugned in the petition.

3. The petitioner was evicted from the suit premises soon after the dismissal of the suit i.e. on 11/11/2010 itself. The petition was admitted on 28/03/2014. By this Civil Application, the petitioner seeks restoration of possession.

4. At this stage, there is no question of granting any relief of interim mandatory injunction to the applicant. The applicant was evicted from the suit premises almost 5 years ago. The applicant was allotted the suit premises by the government during the tenure of his service. The issue as to whether the applicant became a protected tenant in respect of suit premises or not, will undoubtedly be gone into at the stage of final hearing. However, at this stage, it is suffice to note that trial Court as well as the appeal Court had not granted any interim relief to the applicant. In such circumstances, it cannot be said that the applicant has made out any prima facie case to grant relief, which will virtually be in the nature of final relief.

6. Accordingly, Civil Application is dismissed.

7. However, if indeed, any articles belonging to the petitioner are lying in the suit premises, there can be no serious objection to the

applicant taking them away. Mr. A.R. Metkari, learned AGP, upon instructions, states that the articles have been moved to some other premises. He however states that there shall be no objection to the applicant taking such articles away. Accordingly, this statement is noted. The applicant states that he will make arrangement to collect these articles within a period of four weeks from today.

8. Civil Application is disposed of.

(M.S. SONAK, J.)

CERTIFICATE

“Certified to be true and correct copy of original
signed Judgment/Order.”