

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 6937 OF 2012

P. Veeraragavan ... Petitioner

Vs.

Central Silk Board and ors. ... Respondents

...

Mr. M. Ramesh for Petitioner.
Mr. R. R. Arolkar for Respondent no.1

...

CORAM : A. K. MENON, J.
DATE : SEPTEMBER 16, 2015.

P.C.

1. Heard the learned counsel for the parties. The present Writ Petition is directed against order dated 18 June 2012 passed by the Bombay City Civil Court in Miscellaneous Application No.71 of 2012. The said appeal was filed by present petitioners challenging an order passed by the Estate Manager, whereby certain amount of compensation was ordered to be paid jointly and severally by the petitioner along with respondent no.3. The appeal was filed under provisions of Section 9 Public Premises (Eviction of Unauthorized Occupants) Act 1971.

2. Today when the petition is called for hearing, the Learned Counsel for the petitioner submits that the impugned order is bad in

law such as the petitioner was not granted an opportunity to cross examine Respondent no.3. A brief history of the matter is necessary to appreciate the petitioners case. The petitioner had earlier filed Civil Revision Application No.174 of 2011 before this Court in which an order came to be passed on 6th September 2011 recording the fact that petitioner was occupying premises 205 and 206 situated at the First Floor, Silk Mansion, CSB Staff Quarters JVPD Scheme, Juhu on the basis of permission given to the petitioner by Respondent no. 3, the board. The petitioner was thereafter directed to vacate the premises pursuant to the order dated 19th May, 2009. Thereafter proceeding under the Public Premises (Eviction of Unauthorized Occupants) Act 1971 were initiated and the Estate Officer by order dated 23rd July, 2010 directed the petitioner to vacate the said premises and pay compensation.

3. This order of the Estate Officer was challenged by filing Miscellaneous Application No. 82 of 2010 in the City Civil Court at Mumbai which court confirmed the order. According to the petitioner he was not given a proper opportunity to meet the case against him by reason that principles of natural justice had been violated since he was not permitted to lead evidence.

4. The Civil Revision Application was disposed of by issuing appropriate directions setting aside the order dated 28th July, 2010 to the extent it directed the petitioner to pay compensation of Rs.50,000/- per month from 1st July, 2010 to 26th December, 2010. Re-issue of fixation of fair compensation was remanded to the Estate Officer with liberty to the petitioner to lead evidence as regards compensation, so as to enable the Estate Officer to come to a conclusion. The Estate Officer was also directed to permit the petitioner to cross examine the witness of Respondent no.1. Accordingly, after disposal of the said Revision Application evidence was recorded before the Estate Officer and one witness of Respondent no. 1 was examined.

5. The Estate Officer has there after vide order dated 16th January 2012 directed Respondent No.2 to file his reply on or before 27th January 2012 and furnish a copy to the petitioner. The Estate Officer recorded that upon receiving the reply, Estate Officer would decide whether cross examination of respondent no.2 was required and fix date for the same. It is petitioner's grievance that pursuant to the said order Respondent No. 2 has filed a letter dated 18th January 2012 (within time directed by the Estate Officer) but no opportunity was granted to the petitioner to cross examine the author of the said letter dated 18th January, 2012 .

6. The Learned Counsel for the petitioner relies upon ground (a) of the delay and states that this is only ground that is being pressed today. He submitted that Respondent no. 2, Estate Officer failed to adhere to principles of Natural Justice in having denied petitioner the opportunity to cross examine author of the letter dated 18/1/2012, despite made clear directions of this court in the Civil Revision Application. On query from the court the Learned Counsel for the Petitioner conceded that after receipt of letter dated 18th January 2012, he did not make any application for cross examination of the said Respondent no.2. In my view the Estate Officer's order and that impugned order passed by the Learned Judge of the City Civil Court cannot be faulted on this ground since the petitioner has not asked for cross examination of the Respondent no.2. If the petitioner had asked for Cross examination of the author of letter dated 18th January 2012 it would have been different matter altogether.

7. However in absence of such an attempt or request being made for cross examination of the Respondent No.2 petitioner cannot be heard to raise such grievances. In such circumstances there is no case for interference with the impugned order. Petition is dismissed. There is no order as to costs.

(A. K. MENON, J.)

CERTIFICATE

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