IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7388 OF 2015

Shri. Rajesh Kantilal Gada .. Petitioner

Versus

Union of India and others .. Respondents

Mr. P. K. Dhakephalkar, Senior Advocate a/w Ms. G. R. Raghuwanshi, for the Petitioner.

Mr. T. J. Pandian, for the Respondents.

CORAM : R.M. SAVANT, J.
DATE : 6th AUGUST, 2015

P.C.

1. The Writ Jurisdiction of this Court is invoked against the order dated 09.06.2015 passed by the Learned Principal Judge, City Civil Court, Greater Mumbai, by which order the Appeal filed by the Petitioner came to be partly allowed and resultantly, the order of eviction passed by the Estate Officer came to be confirmed only qua the ground that the Petitioner failed to pay the licence fees in respect of the premises in question. The Petitioner is a licensee in respect of the premises admeasuring 20 X 15 sq.ft. in Building No.3, Central Railway Officer's Colony, Nesbit Road, Mazgaon, Mumbai-400 010. The said licence was created under the agreement dated 24.04.2001 and the licence fees

payable were Rs.28,987 for the year 2001 with an enhancement 10% every year. In view of the fact that the Petitioner had defaulted in payment of the licence fees that the licence came to be terminated by the Respondent No.1 vide notice dated 11/19.01.2010 and the Petitioner was called upon to show-cause as why he should not be evicted from the licenced premises. On the Petitioner showing cause, the proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 came to be initiated before the Estate Officer. Before the Estate Officer, the Petitioner did not lead any evidence. However, on behalf of the Petitioner a statement came to be made that the Petitioner was in arrears, but it was the case of the Petitioner that he was made to understand that if he pays some amount, then the eviction proceedings would not be proceeded with. The said stand of the Petitioner was not accepted by the Estate Officer who passed the order of eviction dated 22.01.2015.

2. The Petitioner aggrieved by the order passed by the Estate Officer carried the matter by way of an Appeal under Section 9 of the said Act before the City Civil Court, Mumbai. In the Appeal, the ground made out by the Respondent No.2 that the premises are bonafide required by them for their use was not accepted by the Learned Principal Judge of the City Civil Court as according to the Learned Principal Judge, no material to that effect was placed on record. However, in so far as the ground of the

petitioner being in default of the payment of the licence fees is concerned, the Learned Principal Judge upheld the eviction order passed by the Estate Officer on the said ground. The Learned Principal Judge held that in view of the fact that there was a virtual admission on the part of the Petitioner as regards he being in default of the licence fees, the finding recorded by the Estate Officer would have to be sustained and accordingly dismissed the Appeal. In the light of the concurrent orders passed by the Estate Officer and the Learned Principal Judge, City Civil Court, Greater Mumbai, no case for interference in the Writ Jurisdiction of this Court under Article 227 of the Constitution of India is made out. The Writ Petition is accordingly dismissed. However, on the Petitioner filing the usual undertaking in this Court within one week from date, the Petitioner is granted time to vacate the premises in question up to 30.09.2015. If the undertaking is not filed, the Respondent No.1 would then be free to proceed in accordance with law to evict the Petitioner.

[R.M. SAVANT, J]