

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9720 OF 2014

Mr. Dhananjay Singh	..	Petitioner
VS.		
Mr. Amit Agarwal & Anr.	..	Respondents

Mr. Rajendra R. Mishra for Petitioner.
Mr. Priyal Sarda h/f. Mr. A. S. Tarar for Respondents.

CORAM : M. S. SONAK, J.
DATE : 03 JULY 2015

P.C. :-

1] This petition challenges orders dated 28 January 2015 made by the Competent Authority, Konkan Division and order dated 5 August 2014 made by the Additional Commissioner, Konkan Division (Appellate Authority), both of which have the effect of ordering the eviction of the petitioner from the suit premises on the grounds that the petitioner was a licensee in respect thereof and the licence has been validly terminated and in any case, licence period has also expired.

2] The learned counsel for the petitioner submitted that the petitioner had an agreement for sale with the respondents to purchase the suit premises for a total consideration of Rs.6,71,000/-. This was an oral agreement and in pursuance

thereof, a sum of Rs.87,000/- has also been paid by the petitioner to the respondents. On this basis, the learned counsel for the petitioner contended that the petitioner was no longer licensee in respect of the suit premises and consequently, the Competent Authority had no jurisdiction to entertain proceedings for eviction.

3] The Competent Authority and the Appellate Authority have concurrently disbelieved the case set out by the petitioner. The petitioner despite raising the issue of jurisdiction failed to lead any evidence, in establishing jurisdictional facts. That apart, the petitioner, in his written statement as well as examination in chief admitted that his initial entry in the suit premises was that as a licensee, which licence term was due to expire on 9 March 2006 and that such term was never extended any further. Significantly, in respect of the so-called oral agreement, the petitioner did not choose to file any suit seeking specific performance and in such circumstances, it is not possible to interfere with concurrent findings of fact recorded by the two Authorities. The findings of fact are neither vitiated by any perversity nor can it be said that any relevant and material evidence has not been taken into consideration.

4] Accordingly, no case is made out for interference in the writ petition. This writ petition is dismissed.

5] It is however clarified that in case, the petitioner, chooses to institute any suit seeking specific performance, the same may be decided on its own merits and in accordance with law. It is made clear that this Court has not examined the said matter and accordingly all contentions in that regard are kept open.

(M. S. SONAK, J.)

Chandka