

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION No. 820 OF 2016**

Mr. Arminio Anthony Rebeiro,
major aged 63 years, married, retired,
Indian National, having address at
House No. 8/124, Rebeiro, Enclave,
Altinho, Panaji, Goa.

.... Petitioner.

V/s.

1. State of Goa,
Through the Chief Secretary,
Secretariat, Porvorim, Goa.
2. The Addl. Rent Controller
And Deputy Collector,
Collectorate, Panaji, Goa.
3. The Mamlatdar of Tiswadi,
Office of Mamlatdar,
Collectorate, Panaji, Goa.

... Respondents

Mr. A. R. Kantak, Advocate for the Petitioner.
Mr. A. Gomes Pereira, Additional Government Advocate for the
Respondents.

Coram:- F. M. REIS, J.

Date:- 13th December, 2016

ORA JUDGMENT:

Heard Shri A. R. Kantak, learned Counsel appearing for the
Petitioner and Mr. A. Gomes Pereira, learned Additional Government
Advocate for the Respondents.

2. Rule. Heard forthwith with the consent of the learned Counsel.
Learned Additional Government Advocate waives service.

3. The challenge in the above Petition is to the disposal of the interim application filed by the Petitioner to hand over possession of the subject premises directed to be delivered pursuant to an order passed in the proceedings before the Rent Controller.

4. It appears that the Petitioner has filed a suit for damages against the Respondents as, according to the Petitioner, despite of directions of the learned Rent Controller in the proceedings to hand over possession of the subject premises, there was unreasonable delay of more than 9 years in handing over such possession. By an interim application, the Petitioner sought a relief to hand over possession of the said premises to the Petitioner herein. By the impugned order, the learned Judge has dismissed the application filed by the Petitioner.

5. During the course of the hearing of the above Petition, on the last date of hearing, learned Additional Government Advocate for the Respondent submitted that the Respondent no. 3 has been ready to hand over the possession of the subject premises but, however, as some of the goods of the earlier tenant were kept in such premises which require to be auctioned, the possession could not be handed over to the Petitioner. It was further pointed out that though there were attempts by the Respondent no. 3 to sell such movable assets, but however, some of such assets were still in the premises. Thereafter, during the pendency of the above Writ Petition, the Respondent no. 3 removed all the assets from the subject premises and kept them in their custody. Learned Additional Government Advocate states that though the Respondent no. 3 is ready and willing to hand over the possession of the subject premises immediately to the Petitioner, nevertheless, according to him, there are more fixtures which are built-in the walls

of the subject premises which consist of items no. 5 to 9 in the description of the assets dated 12.09.2016. The said list produced by the learned Additional Government Advocate is marked as 'X' for identification. It is further pointed out that the Petitioner may pay the costs of such fixtures and take possession of the premises immediately. But, Mr. A. R. Kantak, learned Counsel appearing for the Petitioner, submits that the Petitioners are not interested to take over such built-in fixtures and that the Respondent no. 3 may be at liberty to remove them within a period of three weeks from today, in accordance with law.

6. In view of the above, the Petition stands disposed of by permitting the Respondent no. 3 to hand over possession of the subject premises to the Petitioner on or before 22.12.2016. But, however, Respondent no. 3 is at liberty to dispose of the said built-in fixtures in the walls mentioned at item no. 5 to 9 in the list of assets, marked at 'X' for identification, within three weeks from today. The Petitioners shall not raise any objections for such exercise carried out by the Respondent no. 3 within the said period in accordance with law.

7. Rule stands disposed of in the above terms.

F. M. REIS, J.

msr.