

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.1069 OF 2016.**

SHAIKH KARIM, aged 51 years,  
businessman, residing at H.No.561, Near  
Pharmacy College, St. Inez, Panaji, Goa. .... Petitioner.

V E R S U S

Commissioner of the City of Panaji  
through its Commissioner, Panaji, Goa. .... Respondent.

Mr. M. B. De Costa, Senior Advocate with Ms. Karishma Betquecar,  
Advocate for the petitioner.

**CORAM :- SMT. R.P. SONDURBALDOTA &  
C.V. BHADANG, JJ.**

**Date : - 23<sup>rd</sup> November, 2016.**

**P.C. :-**

The petitioner herein challenges the show cause notice dated 30<sup>th</sup> June, 2015 issued under Section 4 of the Goa Public Premises (Eviction of Unauthorized Occupants) Act, 1988 and the final order passed thereon by the respondent under Section 5 of the Act. The notice impugned in the petition is issued to a third person by name Mahadev Parab and not to the petitioner. Therefore, the petitioner can

have no *locus standi* to challenge the notice and the order passed thereon. The petition is liable to be dismissed on that ground alone.

2. The petitioner claims to be allottee in respect of stall No. 41-B in the New Market Phase I/II which is allegedly allotted to him in lieu of business of Milk Booth No.2 and called upon him to remove his stall from the footpath from where he was carrying on business of selling milk. He alleges that the stall was deficient in the facilities such as water, electricity, sewage connection, etc.. Later single unit of Stall No. 41-B was split into two units and given separate numbers as CCP-B-181 and CCP-B-180. The petitioner being an illiterate person and poor person, raised no objection to the division of his stall. He, however, does not disclose as to who is the occupant of the other portion of the stall.

3. On 30<sup>th</sup> June, 2015 he allegedly found the impugned Show Cause Notice in the name of Mahadev Parab, pasted on the door of the premises, calling upon him to show cause as to why eviction order should not be passed against him for unauthorised occupation of the stall. The petitioner sent reply dated 14<sup>th</sup> July, 2015, claiming

that he was the occupant of the stall and not Mahadev Parab. However, ignoring the letter of the petitioner, the respondent passed the final order, calling upon Mahadev Parab to vacate the premises.

4. The petitioner has annexed at Exhibit P-20 to the petition a Report of the inquiry conducted by the respondent into unauthorised occupation of the stalls in the Panaji Municipal Market. The extensive survey of the shops undertaken by the joint team of City Corporation Panaji, Electricity Department, Department of Commercial Taxes and Commissioner of Labour and Employment revealed that more than 95% of the shopkeepers occupying the premises at the time of survey were not the original occupiers to whom the shops had been allotted. The original allottees had illegally transferred stalls to others. As regards Stall No.41-B, it was found that two persons i.e. one Ramnath Arlekar and Mahadev Parab have been occupying the same instead of the original allottee. Consequently, notice of eviction came to be issued to the occupants of the premises.

5. Mr. M. B. D'Costa, learned Senior Counsel appearing for the petitioner complains that the Annexure to the report of the

respondent shows the original allottee of Stall No.41-B as one Firoz H. Noorani and not the petitioner. The petitioner has been shown as the original allottee for Stall No.40-B, the occupation of which, as per the report, is yet to be verified. Therefore, according to him, the entire survey conducted by the respondent cannot be believed. The learned Senior Counsel submits that since the notice issued was pasted on Stall No.41-B, the petitioner was entitled to contest the same and also file the present petition though the impugned notice was issued in the name of a third person. Even this claim on facts does not confer locus upon the petitioner to file the present petition.

6. There are further difficulties in the way of the petitioner. Admittedly, after the allotment, he has not executed leave and licence agreement with the respondent. He has also not paid rent for the stall for all these years on a specious ground that the same is yet to be fixed by the respondent. He has not been able to produce any evidence to show that he has, in fact, been in possession of the said stall and has been carrying on business therefrom, till date. Strangely, though the premises were allegedly split some years back, the petitioner did not raise even murmur against it. He also did not ask for corresponding

reduction in the rent payable in respect of the stall. In these circumstances, it is obvious that in all probability, the petitioner has disposed off the stall unauthorisedly to the occupants found in the premises and is no longer in possession of the stall allotted to him.

7. Mr. D'Costa then seeks to submit that the impugned order would amount to cancellation of the allotment in favour of the petitioner. We find no substance in the argument, because the impugned notice and the order passed thereon is only in respect of the illegal occupation of the premises by one Mahadev Parab. It does not refer to the allotment in favour of the petitioner.

8. For the reasons stated above, the petition is dismissed in limine.

**C.V. BHADANG, J.**

**SMT. R.P. SONDURBALDOTA, J.**

ssm.