IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2523 OF 2016

S. T. Jhoonka Bhakar Kendra
C/o Dalit Mahila Vikas Mandal
through its Secretary,
Varsha Laxmanrao Deshpande .. Petitioner
Versus
Divisional Controller,
Maharashtra State Road Transport
Corporation (MSRTC), Satara Division,
Satara .. Respondent

Mr. U. P. Warunjikar, for the Petitioner.
Mr. G. S. Hegde, for the Respondent.

CORAM : R.M. SAVANT, J.
DATE : 11th MARCH 2016

P.C.

1. The writ jurisdiction of this Court is invoked against the order dated 06.01.2016 passed by the Learned District Judge-5, Satara, by which order, the Appeal in question being RCA No.245 of 2014 came to be dismissed and resultantly, the order dated 25.09.2014 passed by the Residential Deputy Collector-cum-Competent Authority under the Government Premises Eviction Act came to be confirmed.

2. The Petitioner herein is running a Zunka Bhakar Kendra at the State Transport Stand, Satara, which belongs to the Maharashtra State Road Transport Corporation i.e. the MSRTC. It is an undisputed position that the licence period of the Petitioner had come to an end on 31.10.2010 after periodic renewals. The Petitioner was conducting the business of Zunka Bhakar Kendra for about 14 years under the said licence. On the Petitioner not handing over possession of the premises, the proceedings under the Government Premises Eviction Act came to be initiated against the Petitioner. The said proceedings in view of the undisputed position that the licence period had come to an end on 31.10.2010 resulted in the order of eviction dated 25.09.2014 passed by the Competent Authority i.e. the Residential Deputy Collector thereby confirming the notice issued under the said Act.

3. The Petitioner aggrieved by the said order dated 25.09.2014 carried the matter by way of a statutory Appeal before the designated Authority i.e. District Judge, Satara. As indicated above, the Learned District Judge, Satara, has by the impugned order dated 06.01.2016 dismissed the Appeal. Before the Competent Authority as well as in the Appeal, the Petitioner resisted the eviction proceedings on the ground that the licence period was extended for a further period of five years in terms of the policy decision dated 27.06.2012 of the MSRTC. The Petitioner in

support of the said contention also sought to rely upon the receipts evidencing payments being made to the MSRTC for the extended period. The Competent Authority as well as the Appellate Court did not countenance the said contention of the Petitioner in the light of the fact that the licence period had come to an end on 31.10.2010 and accordingly allowed the application filed by the MSRTC and the Appellate Authority confirmed the order dated 25.09.2014 passed by the Competent Authority.

4. The Learned Counsel appearing for the Petitioner Mr. U. P. Warunjikar would seek to re-urge the said contention before this Court also. The Learned Counsel would contend that in view of the said communication dated 27.06.2012 as also the communication dated 20.09.2012 the cause of action for filing the proceedings under the said Act does not survive as the licence period stands extended. This was the principal contention of the Learned Counsel appearing on behalf of the Petitioner.

5. Per contra, the Learned Counsel appearing for the MSRTC Mr. G. S. Hegde would contend that though a policy decision was taken, that the licences were to be extended from year to year with an increase of 10% in the licence fees per annum. A reading of the said communication dated 20.09.2012 postulates the execution of an agreement between the

parties which admittedly has not been done in the present case. Hence, the benefit of the policy decision cannot be availed of by the Petitioner. It was the submission of the Learned Counsel that the payments made by the Petitioner can be attributed to the payment required to be made towards the arrears of licence fees or the continued occupation beyond the licence period.

6. Having heard the Learned Counsel for the parties, in my view, there is no merit in the above Petition. There is no dispute about the fact that the licence period of the Petitioner has come to an end on 31.10.2010. No doubt, a policy decision has been taken by the MSRTC as evidenced by the communication dated 27.06.2012 and also the Petitioner was communicated by letter dated 20.09.2012, the extension that would be granted and amount that was required to be paid which was on the basis of 10% increase but what is required to be noted is that in the said communication dated 20.09.2012 it is mentioned that before the extension could be granted, the licensee would have to execute an agreement at his own cost, that admittedly has not been done in the instant case. In any event assuming that there was any extension granted, the same can only be till 31.12.2015 on which day the period of five years come to an end. It would have to be borne in mind that the premises in question are in a way state largesse and therefore certain precepts and

principles are to be followed in their distribution a person who has overstayed cannot be permitted to continue in the premises on the basis that he or she is in occupation. The public at large is required to be given an opportunity to participate in any process that would be undertaken by the MSRTC to allot the said premises for commercial purposes. It is also required to be noted that the Petitioner has adopted civil proceedings in which the Petitioner also did not made meet with any success as the application for injunction came to be dismissed right upto the Appellate Court and thereafter the Writ Petition filed was dismissed by this Court. In my view, since the licence period has already come to an end on 31.10.2010 and assuming that there is extension granted, the same also was till 31.12.2015, a Writ Court obviously cannot rewrite the contract. In that view of the matter, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

7. At this stage, the Learned Counsel applies for time to vacate the premises. In the facts and circumstances of the case, time up to 30.04.2016 is granted to vacate the premises.

[R.M. SAVANT, J]