

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1613 OF 2016

Mr. Rahul Tulshiram Mohane

.. Petitioner

Versus

The Superintendent,

Mumbai District Women's Prisoner,

Class-II, Mumbai-400 008 and another

.. Respondents

Mr. A. A. Gharte, for the Petitioner.

Mrs. V. S. Nimbalkar, AGP for the Respondents.

CORAM : R.M. SAVANT, J.

DATE : 17th MARCH 2016

PC.

1. The above Writ Petition takes exception to the order dated 19.01.2016 passed by the Learned Principal Judge of the City Civil Court, Greater Mumbai, by which order, the Appeal filed by the Petitioner being Misc. Appeal Nos.80 of 2015 came to be dismissed and resultantly, the order dated 03.09.2015 passed in Eviction Case No.25218 by the Competent Authority came to be confirmed.

2. The Petitioner herein is working as a clerk in the Mumbai District Women's Prison, Byculla, Mumbai. The Petitioner was allotted

Room No.21 on the fourth floor of the building known as Sahyadri Building situate within the premises of the Byculla District Prison as official quarters by order dated 25.04.2014. The said order inter-alia contains the terms and conditions on the basis of which the said allotment was made. Amongst the terms and conditions was condition No.7 providing that the Petitioner should vacate the government premises without any excuse within 24 hours on being called upon by the Respondent. It is an undisputed position that the Petitioner is occupying the said government accommodation. The Respondent issued an office order on 26.01.2015 calling upon the Petitioner to vacate the said accommodation on the ground, that four Prison Officers (Class-II) had joined the establishment of the prison and for the security of the prison, it was necessary to allot residential quarters to those officers within the premises of the prison. By further letter dated 02.02.2015, the Petitioner was informed that the services of the four Prison Officers were coming under the category of essential services and for the security of the prison, it is necessary to allot them residential premises within the prison campus. It was further brought to the notice of the Petitioner that in terms of clause (7) of the allotment letter, he was required to vacate the said accommodation, if called upon to do so. Since the Petitioner did not vacate the said accommodation even after receiving the said letters that

the proceedings under the Bombay Government Premises Eviction Act, 1956 ("BGPE Act" for short) came to be initiated against the Petitioner. The Competent Authority accordingly issued a notice on 27.03.2015 under Sub Section 2 of Section 4 of the BGPE Act calling upon the Petitioner as to why action of eviction should not be taken against the Petitioner. The Petitioner replied to the said notice dated 27.04.2015 and refused to vacate the premises. The Petitioner inter-alia raised various contentions and also questioned the jurisdiction of the Competent Authority to initiate the said proceedings. The Petitioner thereafter filed his written statement on 09.06.2015 and reiterated the contentions raised in the reply to the show-cause notice. The Competent Authority after giving an opportunity to the Petitioner, and having regard to the fact that in terms of clause (7), the Petitioner was required to vacate the premises when called upon to do so, and since the premises were required to accommodate four prison officers, passed the order of eviction against the Petitioner. The said order of eviction is dated 03.09.2015.

3. The Petitioner aggrieved by the said order dated 03.09.2015 carried the matter in Appeal by filing Misc. Appeal No.80 of 2015 before the Learned Principal Judge of the City Civil Court, Greater Mumbai, before whom the Appeal lies under the Bombay Government Premises Eviction Act. The Learned Principal Judge of the City Civil Court held that

the said Act would apply to the premises in occupation of the Petitioner. The Learned Principal Judge of the City Civil Court further held that the Petitioner having failed to vacate the premises though called upon to do so was in unauthorized occupation of the premises in question and is liable to evicted from the suit premises. The Learned Principal Judge of the City Civil Court also observed that in terms of clause (7) of the allotment letter the Petitioner was obliged to vacate the premises when called upon him to do so. The Learned Principal Judge further held that the Petitioner was being given alternate accommodation by the Respondents. It was lastly observed by the Learned Principal Judge that the premises being required for the purposes of accommodating prison officers who are part of the essential services of the Women's Prison, the Petitioner was required to be evicted and the Learned Principal Judge of the City Civil Court therefore, by the impugned order dismissed the Appeal filed by the Petitioner. In my view, having regard to clause (7) of the allotment letter and considering the fact that the premises are required for accommodating four Prison Officers who are required to be accommodated in the prison campus and since the Petitioner in spite of the notices given has not vacated the premises in question, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

4. However, the Petitioner is granted time to vacate the premises

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in question upto 31.03.2016. No further extension would be granted to the Petitioner. In the event the Petitioner does not vacate the premises, the authorities would be then free to proceed against him in accordance with law.

[R.M. SAVANT, J]