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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1378 OF 2016

Rammilan Harishankar Shukla

.. Petitioner

Vs.

The State of Maharashtra and ors.

.. Respondents

Mr. P. N. Wagh for petitioner.

Mrs. G. P. Mulekar, APP for State.

Mr. Afroz Siddique for Intervener.

CORAM: NARESH H. PATIL &
PRAKASH D. NAIK, JJ.

AUGUST 23, 2016.

P.C.

1. In the year 2011, a premises was sealed wherein sizable quantity of gas cylinders filled and half filled was stored. An offence was registered and charge-sheet came to be filed against the petitioner. It is submitted that the petitioner claims to be in possession of the said premises. An application came to be filed by the petitioner. By an order dated 1/3/2016, Metropolitan Magistrate, 66th Court, Andheri, Mumbai, dismissed the said application.

2. The petitioner has approached this court to issue direction to respondents to release, unseal the Gala No. 25 situated at Gulshan Estate near Andheri Ghatkopar Link Road, behind Peninsula Hotel, Sakinaka, Mumbai. Learned APP submits that two persons are claiming possession of the said premises, one is owner and another is tenant. During the course of hearing, it was submitted that the owner has preferred an appeal before the Sessions Court against the order passed by the Rationing Authority. Learned counsel for the petitioner submits that no such order is passed for preferring an appeal.

3. We would not address the controversy between the landlord and tenant. We are more concerned with safety of persons residing around the subject shop/premises. It is surprising to note that since last five years, the inflammatory material is lying in the said shop in a sealed condition. The concerned authority ought to have applied its mind to shift the said material to a safer place. The learned APP submits that different gas companies were informed to take away the said cylinders but so far that process has not been completed.

4. We direct the respondent nos. 2 and 3 to unseal the subject

shop, remove the gas cylinders to a safer place by drawing inventory and panchanama. The subject shop shall be sealed again. In respect of the unsealing and possession of the shop, the parties would resort to appropriate alternate remedy as prescribed under the law. Respondent Nos.2 and 3 shall complete the exercise with two weeks from today. In case a representation is pending before the respondent no.3, the same be disposed of as expeditiously as possible.

5. Petition is disposed of accordingly.

6. Parties to act on an authenticated copy of this order.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL,J.)