

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2855 OF 2016**

Prakash Anthaya Shetty

...Petitioner

Versus

Municipal Corporation of Greater
Mumbai & Ors.

...Respondents

...

Mr. P.K. Dhakephalkar, Senior Advocate i/b. Mr. Sachin Dhakephalkar
for the Petitioner.

Mrs. Vandana Mahadik for BMC.

Mr. K.R. Trivedi, AGP for Respondent -State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 24th OCTOBER, 2016.

P. C. :

Heard Mr. Dhakephalkar, the learned senior counsel for the
Petitioner and Mrs. Mahadik, the learned counsel for the Respondent
-BMC.

2. By this petition the Petitioner is challenging the legality and
validity of notice dated 30th September, 2016 issued by Respondent
No.3- The Assistant Commissioner, G/South Ward, thereby directing
the Petitioner to vacate shop Nos. 2 and 3, F.P. No.1226, Dedhia

Mansion, SVS Marg, Prabhadevi, Mumbai-25. The Petitioner is also challenging the legality and validity of the Respondent-Corporation's action in not granting appropriate /suitable accommodation.

3. So far as the alternative accommodation in lieu of residential premises is concerned, the Petitioner has been allotted Room No.104, 1st floor in Royal Residency CHS, B-wing, Tawripada, Dr. S.S. Rao Road, Lalbaug, CTS No.4/50, 4C/50, 4D/50, Parel, Shivadi Division, in F/South Ward, Mumbai-12. The grievance of the Petitioner is that he has not been handed over keys of this premises.

4. The learned counsel for the Corporation, on instructions submits that keys of this premises would be handed over to the Petitioner subject to the Petitioner gives an undertaking that possession of this alternate premises is subject to final outcome of the First Appeal No.1008 of 1997. The Petitioner is ready to give undertaking to that effect. In view of the statement made, the Petitioner is directed to give such an undertaking to the Corporation within a period of two days. The Corporation shall thereafter handover the keys of the alternate premises to the Petitioner.

5. So far as the commercial premises are concerned, the Petitioner has been offered area equivalent to the existing premises on plot bearing C.T.S. No.6 (PT), 4(PT) of village Kurla, Neharu Nagar, Kurla (E), Mumbai-24 on payment of standing deposit of Rs.64,050/- in addition to the monthly license fee of Rs.12.5 per sq.ft per month.

6. Mr. Dhakephalkar, the learned senior counsel for the Petitioner makes a grievance that the Petitioner is being allotted an area from a big hall admeasuring 10000 sq.ft. The said portion which is preferred to be allotted to the Petitioner has not been identified. He submits that there is an alternate premises available at Worli and that the Petitioner may be given liberty to apply to the Commissioner for grant of alternate commercial premises from Worli or any other places. Mr. Dhakephalkar also submits that the Petitioner would vacate the residential as well as commercial premises within a period of one week from today. Statement is accepted.

7. In the light of above statement, we grant liberty to the Petitioner to make a representation to the Commissioner for grant of an alternate commercial premises other than the one allotted at Kurla, within a period of two weeks from today. The Commissioner or any

other authorised Officer shall take a decision on such representation filed by the Petitioner, within a period of four weeks from the date of receipt of said representation, in accordance with law / policy of the Corporation. In the event, the Petitioner's representation for alternate accommodation other than allotted at Kurla is rejected, then the alternate commercial premises described in the letter dated 14th July, 2014 i.e. the commercial premises at Kurla be given to the Petitioner upon compliance of the conditions laid down in the said letter within a period of two weeks from the date of rejection of Petitioner's such representation.

8. The petition stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)