

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 742 OF 2017

INDIAN OIL CORPORATION LTD., THR.
ITS SENIOR MANAGER (RETAIL SALES),
MR. SURESH DHURI.,

... Petitioner

Versus

DATTAPRASAD SHIVANAND SAWARDEKAR
AND ANR.,

... Respondents

Ms. A. Agni, Senior Advocate with Mr. Nigel Da Costa Frias,
Mr. B. Kucalekar and Mr. Mujahidin Shaikh, Advocates for the
petitioner.

Coram:- C. V. BHADANG, J.

Date:- 22nd August 2017

P.C.

Heard Ms. Agni, the learned Senior Counsel for the
petitioner.

2. The challenge in this petition is to the order dated 20/06/2017, passed by the learned Principal District Judge at Panaji in Civil Appeal No.19/2017. By the impugned order, the learned District Judge has allowed the application (Exh.3) for stay of the order passed by the Estate Officer. The Estate Officer has directed eviction of the respondent under the provisions of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971 (Act, for short).

3. It is contended by the learned Senior Counsel for the petitioner that under subsection (3) of Section 9 of the Act, such an order of stay can be for a limited period to be specified and on such conditions, as may be deemed fit. It is submitted that the order is neither made for a specific period nor there are any conditions imposed. It is next contended that the impugned order is also unreasoned. The learned Senior Counsel points out that it was the case of the petitioner that the petitioner is suffering losses to the tune of approximately Rs.5,000/- per day and as such, it was necessary for the Appellate Court to have imposed appropriate conditions. Reliance in this regard is placed on the decision of the Supreme Court in the case of ATMA RAM PROPERTIES (P) LTD. VS. FEDERAL MOTORS PVT. LTD.; (2005)1 SCC 705. It is next submitted that as per subsection (4) of Section 9 of the Act, such appeal shall be disposed of as expeditiously as possible and every endeavour shall be made to dispose of the appeal, within one month from the date of filing of the appeal.

4. I have considered the circumstances and the submissions made.

5. It is true that the impugned order does not stipulate any period for which stay would be in operation, nor does it impose

any conditions. However, having regard to the fact that subsection (4) requires the appeal to be decided as expeditiously as possible and preferably within a period of one month, I find that instead of interfering with the interim order of stay, the appeal can be directed to be disposed of on merits within one month from the receipt of this order. Normally, this Court would be slow in interfering with the interim orders of the present nature, where the substantive appeal is still pending before the Appellate Court.

6. In such circumstances, the petition is disposed of. The learned District Judge shall decide the appeal as expeditiously as possible and an endeavour shall be made to dispose of the appeal finally within a period of one month from the receipt of this order.

C. V. BHADANG, J.

SMA