

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.182 OF 2017

Vijay Dhondu Kadam.

.. Petitioner

Vs

Union of India,
Through the Ministry of
Civil Aviation Department
and Others.

.. Respondents

—

Shri Hemant Ghadigaonkar for the Petitioner.

Ms. Kavita Anchan i/b M/s. M.V.Kini & Co for the Respondent Nos.2 and 3.

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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 9TH JANUARY 2017

PC.

1. Not on board. Taken on board.

2. Heard learned counsel appearing for the Petitioner and the learned counsel appearing for the second and third Respondents.

3. An order of eviction under Sub-section (1) of Section 28-D of the Airports Authority of India Act, 1994 (for short “the said Act”) has been passed against the Petitioner directing the Petitioner to vacate the land admeasuring 83 sq. meters more particularly described in the order of eviction. An Appeal is provided against the said order under

Section 28-K of the said Act. The Appellant has preferred an Appeal on 5th January 2017 against the said order of eviction as evidenced by Exhibit-C to the Petition.

4. The learned counsel appearing for the second and third Respondents does not dispute that as of today, the Chairperson of the Airport Appellate Tribunal is not available. On instructions, he stated that the process of appointment of the Chairperson is already commenced and appointment is likely to be made shortly. The learned counsel appearing for the Petitioner tenders an additional affidavit to which a communication dated 7th October 2016 addressed by the Ministry of Civil Aviation, Government of India has been annexed. It shows that the Apex Court and various High Courts have been requested to suggest the names of eligible persons by 20th November 2016.

5. As of today, the Petitioner is unable to avail of his statutory right of Appeal though Appeal preferred by him is pending. Therefore, the order of eviction cannot be allowed to be executed unless the Appellant is in a position to move the Airport Appellate Authority for grant of necessary interim relief.

6. Reasonable time will have to be granted to the Petitioner to move the Airport Appellate Authority once it comes into existence to enable the Petitioner to press the prayer for grant of interim relief in the Appeal.

7. Hence, we dispose of the Petition by passing the following order:

ORDER :

- (a) We direct the first Respondent Union of India to ensure that the appointment of Chairperson of the Airport Appellate Tribunal is made as expeditiously as possible;
- (b) Till the date on which the Chairperson of the Airport Appellate Tribunal assumes charge of his post and for a period of three weeks thereafter, the impugned order of eviction shall not be executed subject to condition that even the Petitioner shall maintain status quo in all respects as of today in respect of the premises subject matter of the order of eviction;

- (c) It will be open for the Petitioner to move the Airport Appellate Tribunal immediately after the Chairperson of the said Tribunal assumes charge of the post;
- (d) We make it clear that all the contentions on merits of the pending Appeal are expressly kept open;
- (e) The Writ Petition is disposed of on above terms;
- (f) All concerned to act upon an authenticated copy of this order.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)