

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 3786 OF 2013**

Shri. Ram Arjun Palav	]	
Age 61 years,	]	
Retired UDC in the office of	]	
Director General of Shipping	]	
Residing at Post Bilwas	]	
Taluka Malvan, Dist. Sindhudurg	]..	Petitioner

Vs.

1) The Director General of Shipping	]	
Zahaj Bhavan, W.H.Marg,	]	
Ballard Estate, Mumbai-400001	]	
	]	
2) The Asstt. Estate Manager,	]	
Government of India,	]	
101, M.K.Road,	]	
Old C.G.O. Bldg. Annexe	]	
3 rd floor, Mumbai-400 020	]..	Respondents

....

Mr. Sandeep V. Marne Advocate for Petitioner
Ms. Samiksha Kanani i/b Mr. Suresh Kumar Advocate for
Respondent No.2

....

**CORAM : SMT.V.K.TAHILRAMANI AND
SANDEEP K.SHINDE, JJ.
DATED : AUGUST 01, 2017**

ORAL JUDGMENT [PER SMT. V.K.TAHILRAMANI, J.]:

1 Heard the learned counsel for the petitioner and the
learned counsel for the respondent no.2. Rule. By consent rule
is made returnable forthwith.

2 This petition has been preferred being aggrieved by the order dated 22.2.2013 passed by the Central Administrative Tribunal Mumbai in Original Application 70 of 2009 preferred by the petitioner. By the said order, the Original Application came to be dismissed.

3 The issue in the present case is regarding recovery of rent at market rate for unauthorized occupation of Government accommodation.

4 The petitioner was a Upper Division Clerk occupying the Quarters allotted by Respondent-Department within their residential colony. He was allotted Quarters No. 23/591, C.G.S. Colony, S.M. Plot, Sector 7, Antop Hill, Mumbai Type-II with effect from 6.11.1996. During one of the sudden inspections carried out by the officials of the Respondent-Department, it was found that the petitioner had sublet quarters to some other people. Therefore, the allotment was cancelled vide cancellation order dated 26.9.1998. The representation by the petitioner against the order of cancellation came to be rejected.

The Estate Officer issued show cause notice under Section 4 of the Public Premises Act, and after hearing, passed eviction order dated 27.9.2000.

5 The learned counsel for the petitioner pointed out that against the eviction order dated 27.9.2000 he approached the City Civil Court, which, by its order dated 6.3.2002 set aside the eviction. The Respondent challenged the order of the City Civil Court by preferring Writ Petition before the High Court, however, this Writ Petition came to be withdrawn with liberty to issue a fresh notice and to conduct fresh proceedings in relation to the eviction. Thereafter on 30.3.2005 fresh notice came to be issued and on 27.9.2005 eviction order came to be passed. The petitioner again approached City Civil Court which dismissed the suit preferred by the petitioner on 17.10.2007. The petitioner challenged the order of City Civil Court before this Court and his petition came to be dismissed by order dated 8.2.2008. The learned counsel for the petitioner pointed out that though the writ petition was dismissed by order dated 8.2.2008 he was granted three months time to vacate. He also pointed out that when he approached the City Civil Court

against the eviction order dated 27.9.2005 though the suit was dismissed by order dated 17.10.2007, however, stay was granted in the matter till disposal of the suit, hence, in view thereof, he was in possession of the premises. Thus, the learned counsel for the petitioner submitted that even in the first suit preferred by the petitioner stay was granted and eventually the eviction was set aside. He submitted that from the date when the stay was granted by the City Civil Court till the High Court by order dated 8.2.2008 granted him three months' time to vacate and he vacated the premises on 5.5.2008, for this period, no recovery of rent, can be made.

6 It is to be noted that it is not disputed by the petitioner that he misused the allotment of the flat in question by subletting it. He was therefore, rightfully evicted and also it is within the rights of the respondents to recover the rent at market rate. All the litigation that the petitioner has engaged in, in the City Civil Court and thereafter in the High Court, are at his own instance and he cannot claim any respite for paying any rent at market rate for that period.

7 The purpose of allotment of Government accommodation to Government employees is to facilitate their smooth performance at the office. It is a very known fact that there is always paucity of Government accommodation and many genuine Government employees have to wait for a long time before they get Government residential accommodation. Under such circumstances, any employee misusing the allotment given to him, must be treated with a firm hand. The various claims of the present petitioner have already been raised and decided by various fora such as Estate Office, City Civil Court and the High Court and it has come out in all these cases that he has no valid claim. All these facts have been taken into consideration by the Tribunal and thereafter Original Application preferred by the petitioner came to be dismissed.

8 Looking to the facts of this case, in our view, no interference is called for, hence, Writ Petition is dismissed. Rule is discharged.

[SANDEEP K. SHINDE, J.]

[SMT.V.K.TAHILRAMANI, J.]