

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5295 OF 2017

Ashray Foundation .. Petitioner
Versus
City & Industrial Development
Corporation (Maharashtra) Ltd.
And Anr. .. Respondents

Mr. Surel Shah for petitioner
Mr. G.S.Hegde with Pinky Bhansali for respondent No.1
Mr. S.L.Babar, AGP for respondent No.2

CORAM : V.M.KANADE &
C.V.BHADANG, JJ.

DATE : 5th May 2017.

P.C.

1] Learned Counsel for the petitioner submits that the notice of termination of lease has been issued by the Corporation and the Corporation has asked the petitioner to hand over peaceful possession of the plot and structure standing thereon to the Corporation within seven calendar days. The said notice is dated 20th April 2017.

2] Learned Counsel for the petitioner submits that the initial show

cause notice was issued on 17th November 2011 against which the petitioner has preferred an appeal. It is not in dispute that for the purpose of eviction of the lessee, the Corporation has to follow due process of law. It is the case of the respondent Corporation that they had initiated proceedings under the provisions of Bombay Government Premises Eviction Act, 1955 and thereby passed an order under section 4 of the said Act against the appellant – petitioner herein.

3] It is not in dispute that the said appeal is pending in the Court of District Judge, Thane. Secondly it is submitted by the learned Counsel for the petitioner that an amnesty scheme has been announced by the Corporation but no decision has been taken on the application made by the petitioner under amnesty scheme.

4] Learned Counsel for the petitioner submits that the petitioner is still running a school for deaf and dumb and, therefore, the petitioner has not committed breach of any condition. The petitioner has only taken help of one Gautam Education Trust because the petitioner was falling short of money for running the school.

5] Be that as it may, in our view, since the petitioner has preferred an appeal and which is pending before the District Judge, Thane the petitioner may apply for stay of the impugned order of eviction passed by the Corporation on 20th April 2017. However, such an application if made, be decided expeditiously and preferably within a period of three weeks from today. Till that time, no coercive steps be taken by the Corporation for taking possession of the plot and structure standing thereon. It is clarified that the this order is not passed on merits but only in order to enable the petitioner to approach the competent authority to seek stay.

6] All contentions of parties are kept open. The Corporation may also take a decision if possible on the amnesty scheme. Petition is disposed of in the aforesaid terms.

(C.V.BHADANG, J)

(V.M.KANADE, J.)