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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

CIVIL WRIT PETITION NO. 4286 OF 1998

Mr. Harijan Ramnarayan.

... Petitioner.

V/s.

The Municipal Corporation of Gr. Mumbai & Ors. ... Respondents.

None for the Petitioner.

Mr. Pradeep M. Patil for Respondent – BMC.

CORAM : N.M. JAMDAR, J.

DATE : SEPTEMBER 01, 2017.

Oral Order :-

None for the Petitioner. Perusal of the farad-sheet shows that at the time of hearing as to interim relief, none was present for the Petitioner and the Court has refused to grant interim order. Since the Petition pertains to the incident of the year 1996 and since the Petition is pending since last 19 years, the Petition is taken up for consideration.

2. The Petitioner has challenged the order passed by the City Civil Court, Mumbai in Contempt Notice of Motion No. 1748 of 1996 in L.C.Suit No. 1019 of 1996 dated 6 May 1998. By the

impugned order the learned Principal Judge had rejected the Contempt Notice of Motion.

3. The Petitioner was operating a Cobblers Stall. The Petitioner's licence was cancelled and the stall was demolished on 18 January 1996. It is the case of the Petitioner that inspite of the order of status-quo the demolition took place and therefore, the Respondent – Municipal Corporation and its Officers committed a breach of the order and are liable to be dealt with under the provisions of the Contempt of Courts Act. The Petitioner had also sought further reliefs regarding restoration of the possession and the goods.

4. The learned Principal Judge in the impugned order has observed that the last date of the licence issued to the Petitioner was 31 March 1978. It is also been taken note by the learned Principal Judge that the fact that the stall was demolished on 18 January 1996 was not disclosed by the Petitioner in the plaint nor when the Petitioner applied for ad-interim relief to the Vacation Court. The learned Principal Judge took note of the fact that the order of status-quo was not shown to the Officers of the Municipal Corporation. After considering the matter in detail, the learned Principal Judge came to the conclusion that there was no contempt committed by the Respondent – Authorities. It has also been taken note of by the

learned Principal Judge that at the time of passing the impugned order the Petitioner had settled in his native place three years ago.

5. Considering the scope of Article 227 of the Constitution of India, it cannot be said that the view taken by the learned Principal Judge is perverse. The learned Principal Judge after taking into consideration the factual matrix has recorded a finding that there was no deliberate breach of the Respondent – Authorities. The Writ Petition is accordingly dismissed. Rule is discharged. No order as to costs.

(N.M. JAMDAR, J.)