

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

WRIT PETITION NO.8406 OF 2017

Rakesh Kumar Tyagi

...Petitioner

V/s.

The Additional Commissioner,
Pune Division & Ors.

...Respondents

Mr.R.N. Sanghvi i/b Mr.Sangram Chinappa for the Petitioner.

Mr.Uday B. Nighot for Respondent Nos.3 and 4.

CORAM : M. S. SONAK, J.

DATE : 19th SEPTEMBER 2017

P.C.

1. Heard Mr.Sanghvi, for the petitioner and Mr.Nighot for respondent Nos.3 and 4.

2. This petition is an abuse of the process of the Court and it is required to be dismissed with exemplary costs.

3. In this case, the Competent Authority, has made an order of eviction against the petitioner. Aggrieved by the same, the petitioner instituted the Revision before the Additional Commissioner. The Revision was dismissed. Against such dismissal, the petitioner instituted Writ Petition before this Court being Writ

Petition Stamp No.10719 of 2017. This was dismissed by detailed order dated 26th April 2017. The petitioner then instituted Review Petition Stamp No.14431 of 2017. This Review Petition was also dismissed by order dated 07th June 2017.

4. Undeterred with all these, the petitioner, instituted a Review Petition before the Additional Commissioner by invoking the provisions of Section 114 of the C.P.C. as well as Section 258 of the Maharashtra Land Revenue Code. In the Review Petition, the Additional Commissioner has made the impugned order declining to exercise review jurisdiction on the ground that such a review is untenable. The Additional Commissioner has imposed cost of Rs.5,000/- upon the petitioner for making such a frivolous application for review.

5. Mr.Sanghvi, the learned counsel for the petitioner submits that the impugned order dated 03rd July 2017 made by the Additional Commissioner dismissing the review contains no reasons. He submits that at least some reasons are required to be given at the stage of dismissal of the Review Petition.

6. If at all, there is any error in the impugned order dated

03rd July 2017, then, that error relates to the paltry costs imposed by the Additional Commissioner. The Additional Commissioner is undoubtedly right that the Review Petition was not only untenable but it was *ex facie* frivolous. When the order made by the Additional Commissioner has already been upheld by this Court, and further, this Court has also dismissed the review against its earlier order dated 26th April 2017, the petitioner, was not at all entitled to abuse the legal process by instituting yet another Review Petition before the Additional Commissioner. These are more than sufficient reasons to sustain the impugned order. In any case, the facts are so gross that nothing further was required to be stated in the impugned order.

7. Accordingly, this petition is dismissed with costs quantified at Rs.25,000/-.

8. At this stage, Mr.Sanghvi states that the petitioner is an ex-serviceman. If this is so, then coupled with the fact that it is likely that the ex-serviceman acted on the basis of legal advice, the quantum of costs can be reduced but not eliminated. The petitioner, by abusing judicial process, has confirmed in possession of such premises. Accordingly, the quantum of costs is reduced to

Rs.15,000/-. This petition is accordingly, dismissed with costs of Rs.15,000/-. Ad-interim order granted earlier, to stand vacated. The cost to be paid within four weeks from today to the respondent Nos.3 and 4.

9. At this stage, Mr.Sanghvi prays for continuation of the interim order for the period of two months.

10. Considering the manner in which the petitioners has abused the process of the Court, it is not possible to accept this prayer. Accordingly, the prayer for continuation of interim relief is rejected.

(M. S. SONAK, J.)