

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10861 OF 2017**

Kapil Bhaskar Tapkire

..Petitioner

Vs.

**Nashik Agricultural Produce
Market Committee & Anr**

..Respondents

Mr. R. S. Matkar for the Petitioner

Mr. Kishor Patil a/w Mr. Sachin Gite for the Respondent No.1

Ms N. M. Mehra AGP for the State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL, JJ
DATE : 5th OCTOBER, 2017**

P.C.

1 The above Writ Petition has been filed challenging the notice dated 22-8-2017 issued by the Respondent No.1 market committee. By the said notice, the Petitioner has been asked to pay an amount of Rs.1,58,922/- as the arrears of service taxes for the period of 1-4-2007 to 31-10-2016 as also been called upon to pay the licence fees for the period May 2017 to August 2017. The Petitioner also has been called upon to hand over quite, vacant and peaceful possession of the property in question which is a gala wherein the Petitioner was allegedly running a restaurant. The said notice is challenged inter alia on the ground that nothing is due and payable by the Petitioner towards service taxes as well as licence fees as also on the ground that the Petitioner has been treated as licensee by the APMC Nashik. However, during the course of the hearing of the above Writ Petition. The status of the

Petitioner, the amount due from the Petitioner and whether the Petitioner is still in possession, are issues which have arisen for consideration. Whereas the Learned Counsel appearing for the Petitioner would assert submissions questioning the status of the Petitioner. The Learned Counsel for the Respondent per contra would submit that there is no dispute about the same.

2 In our view, having regard to the said issues factual aspects would have to be gone into more so when there is a contentious issue between the parties as to who is in possession. Hence we deem it appropriate to relegate the Petitioner to a civil remedy either by way of a Suit or proceedings under the APMC Act. Needless to state that if any such remedy is adopted, the same would be tried on its own merits and in accordance with law. We make it clear that we have not expressed any opinion either way whilst passing the instant order.

3 With the aforesaid observations, the Writ Petition is disposed of.

[SARANG V KOTWAL, J]

[R.M.SAVANT, J]