

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

WRIT PETITION NO. 11491 OF 2017

Mrs. Lajwanti Shailesh Panchal

.. Petitioner

Vs.

The Competent Authority, Konkan Division

MAHADA Building, Bandra, Mumbai

and anr.

.. Respondents

...

Mr. Nikhil Mengde I/b Ms. Mansi Patel for the Petitioner.

Mr. S.D. Regrikar, AGP for the Respondent No.1.

...

CORAM : M.S. SONAK, J.

DATE : 13 OCTOBER 2017.

P.C. :

1] Not on board. Upon production, taken on production board.

2] Heard learned counsel for the parties.

3] Learned counsel for the petitioner tenders affidavit of service upon the competent authority.

4] Rule. With the consent and at the request of learned counsel for the parties, Rule is made returnable forthwith.

5] The petitioner has instituted a revision against the eviction order dated 30th May 2017 before the Revisional Authority

within prescribed period of limitation, i.e., on 29th June 2017. Though the interim relief was applied for, no orders were passed by the Revisional Authority either granting or refusing interim relief, even though, the matter was taken up on 29th June 2017 and 21st September 2017. On one of the dates, the respondents raised the objection that the revision was barred by limitation, which objection, was later on retracted. The matter was then posted on 12th October 2017.

6] On 9th October 2017, the Competent Authority, at the instance of the respondents, in execution of its order dated 30th May 2017 sealed the suit premises. This petition was moved virtually on the next date against action of sealing of premises pending adjudication of application for interim relief.

7] In the facts of the present case, for no reasons attributable to the petitioner, the petitioner's application for interim relief has not been disposed of. In such circumstances, it was neither proper for the respondent No.2 to move the Competent Authority nor for the Competent Authority to seal the suit premises in this manner. The action is too harsh considering that all belongings of the petitioner are now in the suit premises and the petitioner and her family members have nowhere else to stay. The action is therefore, liable to be set aside.

8] However, learned counsel for respondent No.2 points out that since there was no interim relief granted by the Revisional Authority, the Competent Authority was justified in proceeding with

the execution. In the facts and circumstances of the present case, such contention, which is otherwise worthy of acceptance, cannot be accepted. This is not a case where the petitioner was delaying the proceedings before the Revisional Authority or that the petitioner had delayed in applying for interim reliefs. In fact, on one occasion, the petitioner's plea could not be considered on account of incorrect objection raised by respondent No.2.

9] Be that as it may, the interest of justice will be met, if the order of sealing the suit premises is set aside, the possession of the suit premises is restored to the petitioner, execution of eviction order is stayed pending disposal of the revision application, but directions are issued to expeditiously dispose of the revision application itself. In this manner, the interests of both parties will be adequately protected.

10] Accordingly, the action of sealing the suit premises is hereby set aside. The Competent Authority shall forthwith remove or in any case, latest by 16th October 2017 remove the seals and restore the possession of the suit premises to the petitioner. The petitioner to maintain *status quo* and not create any third party rights in the suit premises.

11] The parties to appear before the Revisional Authority on 2nd November 2017, which is the date already fixed by the Revisional Authority. The Revisional Authority to hear the revision on merits on the same date or on any other date convenient to it before 15th November 2017. The Revisional Authority to dispose of the

revision application on merits as expeditiously as possible and in any case on or before 15th December 2017. The eviction order dated 30th May 2017 to remain stayed until disposal of the revision application.

12] It is made clear that this Court has not examined the merits of the matter and therefore, the revision application to be disposed of on its own merits and in accordance with law. At the request of learned counsel for respondent No.2, it is made very clear that any observations in the present order or the order for de-sealing the suit premises or stay on eviction, ought not to be construed as any reflection on the merits of the matter. Therefore, the Revisional Authority, should decide the revision application uninfluenced by all these factors.

13] Rule is made absolute in the aforesaid terms. There shall, however, be no order as to costs.

14] All concerned to act on the basis of authenticated copy of this order.

15] The Court Sheristedar, now informs me that the learned counsel for respondent No.2 has not stated his name or given his appearance, despite arguing the matter and therefore his name is not reflected in the order.

(M.S. SONAK, J.)