

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3615 OF 2017

(Chhugaram s/o Lahorilal Khatri vs. The Amravati Municipal Corporation thr. its Commissioner, Amravati)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ROHIT B. DEO, JJ.
JUNE 23, 2017.**

Heard Shri M.G. Bhangde, Senior Advocate with
Sshri R.M. Bhangde, learned counsel for the petitioner and
Shri J.B. Kasat, learned counsel for the respondent.

2. Civil Application No. 1325 of 2017 is not on
board. However, with the consent of parties, it is taken on
board and allowed. The necessary amendment be carried
out forthwith. Civil Application is disposed of.

WRIT PETITION NO. 3615 OF 2017

1. Heard.
2. Perused the orders dated 05.06.2017 passed in
Writ Petition No. 3353 of 2017 and other connected
matters.
3. Shri Kasat, learned counsel has objected to stay
order being extended to present facts as Regular Civil Suit
No. 28 of 2017 filed by the petitioner before the competent
Civil Court at Amravati, is still pending.
4. Today, we have allowed CAW No. 1325 of 2017.

We find that the challenge in the suit was to the order of sealing i.e. seal put up on the premises allegedly not in use of the petitioner. At that juncture, there was no dispossession.

5. According to the petitioners, after filing of suit on 03.02.2017, seal was removed, locks of the petitioner were broken open and possession was taken back by the Municipal Corporation.

6. The Municipal Corporation is disputing this. According to them, possession was taken before filing of suit.

7. We need not elaborate more on this controversy as said act of taking possession and, therefore, restoration of possession do not form part of Civil Suit. The technical aspect whether power under Order 2 Rule 2 of Civil Procedure Code could be applicable in present facts, also not that relevant in the light of earlier adjudication mentioned by us supra i.e. vide order dated 05.06.2017. All other facts at hand and in matters decided on that date, are identical.

8. In present matter, after removing lock, the respondent – Municipal Corporation has shifted some of its offices to the premises, of which the possession has been taken forceably and illegally.

9. Shri Kasat, learned counsel disputes these observations.

10. Shri Bhangde, learned counsel fairly states that no action will be taken in this respect against the respondent.

11. As in other matters we have directed restoration of possession, we adopt the same course of action and accordingly direct the respondent – Corporation to vacate the premises so taken in possession and restore the possession of the petitioner over it within two weeks from today.

12. Needless to mention that the respondent – Corporation is at liberty to proceed against the petitioner, if it needs premises in dispute, as per law.

13. Writ Petition is thus allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

*GS.