

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

Civil Application (W) No.2208 of 2017
in
Writ Petition No.3474/2017
Rashtriya Mill Mazdoor Sangh Vs. Assistant Registrar and others.

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

Court's or Judge's orders

Shri S. D. Thakur, Counsel for petitioner.

CORAM : B. P. DHARMADHIKARI AND
R.B. DEO, JJ

DATED : October 13, 2017

Heard.

2. Clarification of the order dated 17/07/2017 has been sought on the ground that restoration of possession also should have been ordered or it should be clarified as implied allowed.

3. Support is being taken in the case of **A.P. State Financial Corporation VS. M/s Gar. Re-Rolling Mills and Another (1994) 2 SCC 647.** Learned counsel for the respondents submit that possession was not prayed for at all in the Writ Petition and it has got no bearing with the communication, which has been set aside by this Court.

4. Perusal of the order dated 17th July, 2017 passed by us shows that there the counsel appearing for respondents No.2 and 3 had submitted that possession was not taken

forcefully.

5. In reply affidavit filed before this Court, respondents Nos.2 and 3 submitted that they entered possession peacefully on 27/5/2017 before the impugned communication.

6. On 17th July, 2017 after hearing the respective counsels, we found that there was some disputed issues and there was no express prayer for restoration of possession in Writ Petition. Restoration of possession cannot be a relief to be granted in equity.

7. In the reported judgment cited (supra), the Hon'ble Apex Court has considered the claim of a party in default to equity. Here, when there is no express prayer for restoration of possession, we are not required to embark into that province. The petitioners have to take necessary steps as per law, if they claim restoration of possession. Hence, with that liberty, we disposed of civil application.

JUDGE

JUDGE