

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 15212 OF 2017

Shafiyoddin Jamaloauddin Mohammad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Shailesh P. Brahme, Advocate for the Petitioner.

Shri K. N. Lokhande, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 14TH FEBRUARY, 2018.

FINAL ORDER :

. Mr. Brahme, the learned counsel for the petitioner submits that, abruptly the respondents have sealed shop No. 1 of the petitioner. The petitioner had deposited an amount of Rs. 1,12,000/- and the petitioner is only required to pay Rs. 44,000/-, however, respondents have issued notice showing outstanding amount of Rs. 51,665/- and in the affidavit they claimed outstanding amount of Rs. 71,565/-. According to the learned counsel, in fact, the petitioner has done the work of the respondents during the election period for which the petitioner's claim against the respondents is for recovery of Rs. 94,000/-. According to the learned advocate, there are ample documents to

show that, the petitioner is tenant of shop No. 1 and is inducted as a tenant by the Tahsildar. Even assessment of rent has been done by the Executive Engineer. The petitioner's shop is sealed and even material of the petitioner is inside the shop.

2. The learned Assistant Government Pleader for respondents submits that, there is no agreement between the parties to suggest that the petitioner is a tenant. The certificate given by the Tahsildar is only for the purpose of electricity connection. Only because rent was paid by the petitioner that does not mean that the petitioner is tenant. The amount due and payable by the petitioner is to the tune of Rs. 71,565/-. The petitioner cannot be permitted to carry out the business in the said premises.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. Considering number of documents on record, it appears that, the petitioner was treated as a tenant. The rent assessment is also done by the Sub Divisional Engineer. From 2002 to 2007 the rent of shop No. 1 of the petitioner was Rs. 1,000/- per month and from 2007 onwards it is shown to be Rs. 1,500/- per month. There is a certificate of the Tahsildar certifying that the petitioner is a tenant.

5. The petitioner's shop is sealed. Naturally, the petitioner will be entitled to take the material which is in the shop. The respondents shall allow the petitioner to remove his belongings in the said shop. The petitioner has shown his willingness to pay the amount as demanded by respondents under protest. The petitioner may pay the amount to the respondents and upon payment of the same, the respondents shall reconsider the claim of the petitioner for release of the shop in his favour for running the business. The said exercise shall be done expeditiously and preferably within a period of four (04) weeks from the date of payment. The writ petition is accordingly disposed of. No costs.

6. If, case of the petitioner is not considered by authorities the petitioner is at liberty to agitate in appropriate proceedings.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]