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

WRIT PETITION NO. 8002 OF 2018

K. S. Lakshminarsimhan

.....Petitioner

V/s.

Airports Authority of India and another

.....Respondents

Mr. S. C. Naidu i/b Ms. Prerna Sharma for the petitioner

Mr. Anil C. Singh ASG a/w Mr. Rony P.J. & Ms. Indrayani Deshmukh
i/b Rony & Co. for respondent no. 1

**CORAM : R. M. SAVANT &
NITIN W SAMBRE, JJ.**

DATE : 10th OCTOBER, 2018.

P.C.

The above Writ Petition has been filed seeking the relief of quashing and setting aside the Eviction Order dated 12/07/2018 passed by the Eviction Officer of the respondent no. 1 on the ground that Airport Appellate Tribunal before whom the Appeal lies against the said Eviction Order is not constituted and therefore the petitioner cannot effectively avail of the remedy of an Appeal which is provided under the Airports Authority of India Act, 1994 (Hereinafter referred to as 'AAI Act' for the sake of brevity).

2 In the said context, few facts are required to be noted. The petitioner herein was the Joint General Manager ATC, Juhu. The petitioner was suspended vide order dated 17/12/2015, pending departmental inquiry to be held against him. By the said order the petitioner's headquarter was also changed to ATC Kolkata. The petitioner has admittedly not joined at his new headquarters i.e. at Kolkata. The petitioner's suspension was revoked on 27/04/2016 on the condition that the date of revocation of the suspension will be the date he joins at Kolkata. As indicated above, an Eviction Order has been passed against the Petitioner on 12/07/2018. Against the said Eviction Order, an Appeal has been filed by the petitioner as provided under the AAI Act. The said order has been challenged *inter-alia* on the grounds which have been mentioned in the Appeal, but principally on the ground that the Eviction Officer who had passed the Eviction Order had no authority to do so. The above petition has been moved on an urgent basis seeking interim reliefs in view of the fact that the Airports Appellate Tribunal has not been constituted.

3 The learned counsel appearing on behalf of the petitioner would submit that amongst the grounds on which the Eviction Order has been challenged, being the ground of the authority of the Eviction Officer, in the absence of the Appellate Tribunal, the said ground is required to be dealt with by this Court in its Writ Jurisdiction under Article 226 of the Constitution of India. Since the petitioner was seeking interim reliefs till such time as his Appeal can be heard by the Airport Appellate Tribunal, we deemed it appropriate to consider the said ground which goes to the root of the matter insofar as the Eviction Order passed against the petitioner is concerned.

4 On behalf of the respondent no. 1, an affidavit-in-reply has been filed in which reply the said ground has been dealt with especially in paragraph 18 thereof. The said paragraph is reproduced hereinunder for the sake of ready reference.

“18. It is submitted that the EO being the Airport Director or in other words the Airport-In-charge of Juhu Airport is duly authorized to be the EO under the provision of AAI Act and it is evidenced by Exhibit “D” Order to WP dated 08.06.010 which specifically mentioned that his appointment is approved by

Competent Authority. The averment and the allegations to the contrary are denied in toto”.

5 Hence, reading of the said paragraph discloses that the Airport Director or the Airport In-charge at Juhu Airport had been duly authorized to be the Eviction Officer under the provisions of AAI Act.

6 The learned Additional Solicitor General Mr. Anil Singh would draw our attention to the Circulation no. 1/2010 dated 13/05/2010 seeking approval of the Board for eviction of unauthorized occupants/appointment of Eviction Officers. The said Circulation note refers to Section 28 (A) which defines what are Airport Premises. Section 28 (B) provide for appointment of Officers and thereafter in a tabular form, the Eviction Officers at the various centres of the Airport Authority of India have been mentioned. Insofar as the premises occupied by the petitioner are concerned, Clause 1 of the said table would cover the same. In terms of Clause 1, the Executive Director or the Airport In-charge is the Eviction Officer in respect of the Airport premises/land belonging to, leased or taken on lease by Airport Authority of India.

7 The learned counsel appearing for the petitioner did not dispute the said Circulation note and the approval of the Board to the said Circulation note, but it was the contention of the learned counsel that the Eviction Officer who has been designated, his name ought to be gazetted in the Government Gazette. In support of which, the learned counsel initially sought to place reliance on Section 28 (A) and thereafter Section 42 of the AAI Act. We have perused the said provisions but we do not find any such requirement of the designation to be gazetted in the Government Gazette as sought to be contended by the learned counsel for the petitioner. The reliance placed on Sub-Section 4 of Section 42, according to us is also misplaced as the said clause relates to conditions of service and not in respect of the Authority to be constituted to hear the matters relating to eviction. Insofar as Sub-Section 5 of Section 42 is concerned, the requirement to gazette is in respect of a Regulation framed under Section 42, we are afraid that the requirement cannot be extended to the appointment of Eviction Officers. The reliance placed on the order dated 09/01/2017 of the Division Bench of this Court in Writ Petition

no. 182 of 2017 is misplaced as in the said case, the person was an unauthorized occupant of 83 Sq. Meters of the land which is belonging to AAI. Insofar as the petitioner herein is concerned, the petitioner would undoubtedly be subject to the discipline of the AAI where he is working.

8 Having regard to the fact that by order dated 17/12/2015, the Headquarters of the petitioner have already been changed to Kolkata and the suspension of the petitioner is revoked contingent upon him joining at Kolkata, we do not deem this a fit case wherein we should grant any interim relief to the petitioner pending consideration of the Appeal. We are persuaded to take this view in view of the facts as afore-stated as also in view of the fact that accommodation is required to be provided to the other employees of the AAI.

9 In that view of the matter, no relief can be granted to the petitioner in the above Writ Petition. The same is accordingly dismissed.

10 Needless to state that the challenge to the initiation of

departmental proceedings as well as the suspension order which is the subject matter of another petition would be considered on its own merits. The ad-interim relief which is in operation would continue for a period of 4 weeks from date.

[NITIN W. SAMBRE, J.]

[R. M. SAVANT, J.]