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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12294 OF 2017

Akbar Ali Khan

...Petitioner

V/s.

M/s.New Royal Chemist & Ors.

...Respondents

Ms.Namrata Kadam i/b Mr.Amar Bhatt for the Petitioner.

Mr.Sachin Punde for the Respondent No.1.

Mr.Anand Kulkarni i/b Mr.Dushyant Purekar for the Respondent No.2.

Ms.Kavita N. Solunke, A.G.P. for the State – Respondent Nos.3 and 4.

CORAM : R.D. DHANUKA, J.

DATE : 25TH JUNE, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 15th July, 2017 passed by the learned Minister, Food & Drugs Administration allowing the appeal filed by the respondent no.1. The respondent no.1 had impugned the order passed by the learned Joint Commissioner, F.D.A., Sales Drug, Food & Drugs Administration i.e. the respondent no.2 herein, who had refused to grant extension of drug license issued in favour of the respondent no.1 on various grounds.

2. Learned counsel for the petitioner states that the respondent no.1 is in illegal and unauthorized possession of the shop

which is owned by the petitioner. She invited my attention to various *prima-facie* observations made by the City Civil Court in the order dated 23rd March, 2015 in the Notice of Motion No.1510 of 2013 in S.C. Suit No.1202 of 2013 filed by the respondent no.2 against the petitioner seeking permanent injunction against the petitioner. She submits that the City Civil court has already made various *prima-facie* observations against the respondent no.2 and in favour of the petitioner and has dismissed the said notice of motion filed by the respondent no.2. Though an appeal is filed by the respondent no.2 against the said order dated 23rd March, 2015 passed by the City Civil Court, so far no ad-interim relief has been granted in favour of the respondent no.2. She submits that the respondent no.1 has been relying upon an unregistered document and thus based on such document could not have been granted extension of drug license.

3. Learned counsel appearing for the respondent no.1 on the other hand submits that his client has been running the Chemist shop since 2011. Upon expiry of the license, the respondent no.1 has applied for renewal of the drug license. The authority however, rejected the said application on the intervention of the petitioner. Learned Minister however, has rightly interfered with the order passed by the authority and has set aside the said order.

4. It is submitted by the learned counsel that insofar as the

suit (S.C. Suit No.1202 of 2013) filed by the respondent no.2 against the petitioner is concerned, the respondent no.1 is not a party to the said suit. His client is not concerned with the dispute between the petitioner and the respondent no.2 pending before the City Civil Court. His client is independently claiming the right of license in the shop premises from the respondent no.2.

5. In my view, the learned Minister has rightly interfered with the impugned order passed by the authority by which the application for renewal of the said license was rejected. It is not in dispute that the petitioner has not filed any independent proceedings against the respondent no.1 *inter-alia* praying for recovery of possession or for any other substantive reliefs insofar as the license shop is concerned.

6. I am thus not inclined to interfere with the impugned order passed by the learned Minister. It is made clear that whether the petitioner is entitled to the recovery of possession of the shop premises from the respondent no.1 or not, no views are expressed by this Court in this order. If any such suit is filed by the petitioner, the same shall be decided on its own merits.

7. The writ petition is dismissed with the aforesaid reasons. There shall be no order as to costs.

(R.D. DHANUKA, J.)