

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

CIVIL APPLICATION (CAS) NO.1250 OF 2017
IN/AND
SECOND APPEAL ST.NO.4453 OF 2017

Hemraj Daduji Chandrikapure

-vs-

Gram Panchayat Barbaspura, Thr. Sarpanch and ors.

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

Court's or Judge's Orders.

Shri Anand S. Thotange, Advocate h/f Shri U. J.
Deshpande, Advocate for applicant.

CORAM : A.S.CHANDURKAR, J.
DATE : June 28, 2018

In the application a prayer is made to condone the
delay of 1586 days.

I have heard the learned counsel for the appellant.

The appellant is the original plaintiff who had filed
suit for perpetual injunction as well as for declaration
that he had right to continue in occupation of land
admeasuring 30' x 50'. He raised a grievance against the
action taken for his removal from the said property.
According to him he was in occupation of the suit
property since the year 1985-86. The trial Court held
that the plaintiff could not point out any legal basis for
occupying the suit property. He was sought to be
removed after issuing notice dated 28/06/2005. On
that count the suit came to be dismissed. The appellate
Court confirmed that judgment by observing that the

Gram Panchayat had served on the plaintiff three notices before his eviction.

It is submitted by the learned counsel for the appellant that there was no notice issued under provisions of Public Premises (Eviction of unauthorised occupation) Act, 1971 and especially Section 4 thereof. It is urged that as the plaintiff was occupying public premises, such notice ought to have been issued to him. This contention cannot be accepted in view of the fact that notices were issued to him in exercise of powers conferred on the Tahsildar by the Maharashtra Land Revenue Code, 1966. In all three notices were issued to the plaintiff and hence it cannot be said that without following the proper procedure he was evicted.

In view of aforesaid, as no merit is found in the appeal the Civil Application as well as the Second Appeal stand dismissed. No order as to costs.

JUDGE