

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

WRIT PETITION NO.3781 OF 2018
WITH
CIVIL APPLICATION NO.781 OF 2018
IN
WRIT PETITION NO.3781 OF 2018

Shri Nayan C. Baraiya & Others	..	Petitioners.
v/s.		
Union of India & Others	..	Respondents.

Mr. Mehul Shah, for the Petitioners.
Mr. Amitkumar D. Sale, for the Applicant.
Mr. S. S. Deshmukh, for the Respondent.

**CORAM: A.S.OKA &
M.S.SANKLECHA, JJ.**
DATE : 8th APRIL, 2019.

P.C:-

Heard the learned Counsel appearing for the Petitioners. The 2nd Respondent (Dy. Collector of Diu) passed an order, granting lease of the land vested in the Union Territory of Daman and Diu in favour of the Petitioners for a period of ten years from 1st October, 2009 to 30th September, 2012. As provided in the said order, after expiry of the period of ten years, the lease was renewed and extended for a further period upto 30th September, 2017.

2 The prayer in this Petition under Article 226 of the Constitution of India by the Petitioners is to set aside the notice dated 29th September, 2017 (Exh. K to the Petition) which calls upon the Petitioners to hand over possession of the land which is the subject matter of lease.

3 The first submission of the learned Counsel for the Petitioners is that the order dated 13th September, 2002 itself mentions that the lessee had an option for renewal for the lease for a period of another five years as per the approved Land Lease Policy for Shrimp Farming. He submitted that, the approved policy which was in force at the relevant time provided for renewal of lease for a period of five years. He pointed out that on 6th January, 2015, an amended policy was issued which provides for extension by a period of ten years. His submission is that the said policy dated 6th January, 2015 has been issued during the extended period of five years and, therefore, in terms of the said policy, the case of the Petitioners ought to have been considered for extension of lease, if not for ten years, but at-least for five years.

4 The learned Counsel appearing for the Petitioners invited our attention to the fact that even document of lease spells out a right in favour of the Petitioners to get the renewal of the lease as provided in land lease policy. He submitted that the case of the Petitioners for grant of further renewal is not even considered by the administration.

5 We have considered the submissions. Admittedly, the land which was the subject matter of lease is vesting in the Union Territory of Daman and Diu. When the order dated 3rd September, 2002 was passed granting a lease in favour of the Petitioners, land lease policy for Shrimp Farming was applicable. The said policy provided for extension only by a

period of five years. Accordingly, Petitioners were granted extension for a period of five years.

6 We have perused the subsequent policy dated 6th January, 2015. Though it refers to the earlier policy notified under the notification dated 5th September, 2002, the said policy does not provide for grant of any further extension of lease to those who have already enjoyed one extension of the period of lease under the earlier policy dated 5th September, 2002. On plain reading of the policy dated 6th January, 2015, it is apparent that the same will apply prospectively and it will apply to the leases granted after 6th January, 2015.

7 Therefore, there is no merit in the contentions that in view of the subsequent policy dated 6th January, 2015, further extension of five years ought to have been granted to the Petitioners.

8 In this Petition under Article 226 of the Constitution of India, we are dealing with a valuable public property vesting in the Union Territory. A public property can be disposed of only in a fair and transparent manner. Therefore, in the affidavit in reply filed by Dr. Apurva Sharma, Deputy Collector, Diu, it is specifically stated that the intention of the administration of Union Territory is to invite fresh applications for allotment. Hence, in our view, the Petitioners are not entitled to the extension as a matter of right after one extension by a period of five years.

9 Hence, no relief can be granted in this Petition under Article 226 of the Constitution of India. We make it clear that on the basis of the impugned order dated 29th September, 2017, the Petitioners cannot be

forcibly evicted and if the Petitioners fail to vacate, the Respondent will have to follow the due process for evicting the Petitioners.

10 Subject to what is observed above, the **Petition** is **rejected**.

11 Pending Civil Application does not survive and the same is also rejected.

(M.S.SANKLECHA,J.)

(A.S.OKA,J.)