

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8265 OF 2021**

Devraiyan Ganpati Devendran .. Petitioner

Vs.

Union of India Through
Army Area Commandant & Anr. .. Respondents

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Mr. Shakeeb Shaikh with Mr. Mangesh Nalawade and Ms. Asmita Raibhar i/b Upshot Legal for the petitioner.

Mr. B.M. Chatterji with Ms. Kavita Singh i/b Mr. R.P. Ojha for the respondents.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 01ST DECEMBER, 2021.

P.C:-

1. The petitioner, who has filed a short cause suit against the Union of India and the Army Area Commandant, Colaba, sought a relief therein that the action of the defendant No.2 to put the seal on the suit shop is illegal. His claim is that he is running a business of jewellery in the Old Army Market and he is

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aggrieved by the action of defendant No.2 of sealing the suit shop particularly, when he is carrying on business in the suit shop since the year 1990.

2. In the pending suit, he has taken out a notice of motion vide Notice of Motion No.653 of 2019 and filed an affidavit in support of the notice of motion stating therein that no harm or prejudice will be caused to defendant No.2 if pending the hearing and final disposal of the suit, the seal is removed and he is permitted to carry on the business in the suit shop.

3. Learned senior counsel Mr. Chatterjee has invited my attention to the written statement filed by the defendants in the suit wherein, a specific stand is taken to the effect that on noticing the movement and assembly of anti-social elements and miscreants near the suit shop and in the market, it is decided that the vendor shall not be permitted to continue with the activities. Apart from this, the authority of the plaintiff to carry on such business is also questioned. In the said backdrop, due to the prevailing security condition, necessary action is taken by the authority.

This, of course, is the stand of the defendants in response to the suit.

4. The notice of motion pending before the City Civil Court, Bombay, however, deserves a hearing and the grievance

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of the petitioner today, is that no hearing is granted to the petitioner on the said notice of motion and the matter is getting adjourned and, now it is posted for today i.e. on 01/12/2021 before the City Civil Court.

5. Considering the rival contentions, I am of the opinion that the hearing of the notice of motion cannot be deferred indefinitely and the learned Judge, who is seized of the pending notice of motion i.e. Notice of Motion No.2791 of 2021 shall make every endeavour to dispose of the said notice of motion within a period of eight weeks from today. Considering the nature of the suit and the defence put up by the respondents in the said suit, the parties are at consensus that the suit itself can be heard and concluded within a period of one year from the date of receipt of this order. The parties are expected to render their co-operation to the learned Judge to dispose of the said suit within the time stipulated as well as in a time bound schedule.

6. With the aforesaid observations, the writ petition is disposed of.

[SMT. BHARATI DANGRE, J.]