

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

927 WRIT PETITION NO.10633 OF 2023

**JANTA TEA HOUSE THROUGH ITS PROPRIETOR
IFTEKHAR SHAMSHODDIN KAZI
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

...
Advocate for Petitioner : Mr. Bhosale Mahesh Kalidas
AGP for Respondents/State : Mr. S.K. Tambe
Advocate for R/2 : Mr. A.B. Dhongade
...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 31st August, 2023**

PC. :-

1. This matter was heard for quite some time on 30.08.2023 and we passed the following order:

“1. Having extensively heard this matter and having noticed that the Petitioner is squatting over the property when there is no renewal of contract, the learned Advocate for the Petitioner submits that, the Petitioner may be given an option to vacate the premises by 30/09/2023 and within this period, if the Maharashtra State Road Transport Corporation (MSRTC), Nanded renews its contract in writing with the Petitioner, the parties would be bound to the terms of the contract.

2. Let such affidavit-in-reply be filed tomorrow i.e. on 31st August, 2023.

3. List this matter for 'passing orders' tomorrow i.e. on 31st August, 2023.”

2. After a lengthy hearing in this matter, we expressed our view as to whether the Petitioner may make a statement that he would evict himself from the S.T. Bus Stand premises at Nanded within a month or two, keeping in view that there is no contract continued by the MSRTC after 30.09.2021.

3. The conduct of the Petitioner is glaring in view of the fact that he preferred RCS No. 498/2021 before the 9th Jt. C.J.J.D., Nanded seeking injunction / injunctory orders with regard to the notice received by him from the MSRTC, as there was no continuation of the agreement. The lease agreement was to expire on 30.09.2021. The Petitioner approached the trial Court in the said suit on 29.09.2021 and despite the lease agreement having expired on 30.09.2021 and though the issue between the Petitioner and the MSRTC was only with regard to the purported charges for excess use of land, the 9th C.J.J.D., Nanded (Coram: Mudassar Nadeem) passed an order restraining the MSRTC from interfering in the peaceful possession of the Petitioner's rented premises until disposal of the suit. This order practically has the trappings of compelling the MSRTC to per-force permit the Petitioner to continue in the same shop without there being any extension or lease agreement. It is further glaring that the aforesaid order is passed when the issue before the trial Court was only with regard to the charges levied by the

MSRTC in view of the encroachment made by the Petitioner and the excess use of land.

4. Today, the learned advocate for the Petitioner submits on instructions that the Petitioner desires to withdraw this petition. This would actually amount to a trick being played by the litigant on the Court. The Petitioner approached this Court for permission to operate the shop between 11.00 p.m. to 04.00 a.m. though the type of business operated by him is not in the exempted list set out in Schedule - 2 under Section 4 of the Bombay Shops and Establishments Act. As we probed into the matter to assess the controversy, it revealed to us that the MSRTC has declined to extend the lease agreement with the Petitioner after 30.09.2021 and the attempt of the Petitioner in this Court was to secure an order to operate the shop between 11.00 p.m. and 4.00 a.m., which would have practically amounted to legalizing his occupation in the premises without there being a lease agreement. The learned advocate for the MSRTC brought all these facts to our notice and pointed out that the Petitioner has systematically suppressed these aspects in his pleadings in the Petition.

5. As such, we find the following glaring aspects in this petition :-

a] The Petitioner has not divulged that his lease agreement had expired on 30.09.2021.

- b] He has also not divulged that there is no further extension of the lease agreement.
- c] He has also suppressed the lodging of RCS No.498/2021, though the injunctory order is placed on record.

6. This amounts to suppression of material facts and the law laid down by the Hon'ble Supreme Court in **Kishore Samrite V/s. State of Uttar Pradesh; (2013) 2 SCC 398** and **Bhaskar Laxman Jadhav & Ors. V/s. Karmaveer Kakasaheb Wagh Education Society; AIR 2013 SC 523**, would become squarely applicable to his case. The Hon'ble Supreme Court has laid down the law that in such circumstances, the Petitioner should be deprived of relief on account of an attempt to suppress facts and snatch an order from the Court.

7. In view of the above, we refuse to permit the Petitioner to withdraw the petition.

8. On account of suppression of material facts, **this petition is, therefore, dismissed** with costs of Rs.25,000/- which shall be deposited by the Petitioner in this Court on or before 15.09.2023. Out of the said amount, Rs. 15,000/- shall be transferred to **Anand Gram (Infant India) Canara Bank, Pali Branch. IFSC Code: CNRB0003773, A/c No.3773201000011**. The remaining

amount shall be donated to the **Advocate's Association Bar Library, High Court of Bombay, Bench at Aurangabad.**

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]