



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO. 7224 OF 2024

Satnam Kaur Santoksingh SaghuPetitioner

VERSUS

Estate Officer Cantonment AhmednagarRespondent

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Mr. N. D. Sonavane, Advocate for the Petitioner.

Mr. S. B. Solanke, Advocate for the Respondent.

CORAM : R. M. JOSHI, J.

DATE : 20th JULY, 2024.

PER COURT :

1. Learned counsel for Respondent submits that he does not want to file any reply.

2. By consent of both sides, heard finally at admission stage.

3. This Petition takes exception to the order passed by the Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, directing eviction of the Petitioner from the premises owned by the Cantonment Board. Petitioner is also aggrieved by the order passed by Principal District Judge,

Ahmednagar, in Regular Civil Appeal No. 182/2017, confirming the said order.

4. Learned counsel for Petitioner submits that the suit property was originally let out by Cantonment Board to one Mr. D. N. Parera. The said lease was executed on 20.07.1938. A notice was issued on 15.12.1967 to Mr. Parera stating that the period of lease would be ending on 31.03.1968. Accordingly, Mr. Parera applied for renewal of the lease. However, no order was passed of renewal of lease thereafter but the occupation of Petitioner in the said premises as sub-tenant continued till date. It is his contention that in the year 2014, notice was issued by the Chief Officer of the Cantonment Board for calling upon the Petitioner to vacate the premises. This notice was replied. Even after issuance of this notice, Cantonment Board is accepting the rent. Thus, it is the contention of Petitioner that she has become sub-leasee of the suit property.

5. Learned counsel for Petitioner submits that the Chief Executive Officer who had issued the notice is now Estate Officer. It is his further submission that there is documentary evidence on record to indicate acceptance of rent by the Cantonment Board from

2014 i.e. after issuance of notice till date. He further submits that the suit premises is situated in the residential area of the Cantonment Board and therefore, provisions of Public Premises (Eviction of Unauthorized Occupants) Act are not applicable to the same. It is his further contention that in complete ignorance of Section 5 of the Act, the Estate Officer has passed the impugned order.

6. Learned counsel for Respondent tried to support the impugned order as well as the order passed by the learned Principal District Judge, Ahmednagar in appeal. It is his submission that the objections raised by Petitioners do not hold any substance and hence it was not necessary for the Estate Officer to deal with the same in detail. He has drawn attention of this Court to the order passed by the Principal District Judge, Ahmednagar in appeal wherein all these aspects are duly considered and reasoned order is passed.

7. There cannot be any dispute with regard to the proposition of law that any order passed which is affecting the substantial rights of the parties must be supported by reason. Even a quasi judicial authority is required to pass such order only after

recording reasons therefor. Perusal of the impugned order shows that the contention of Petitioner has not been taken into consideration /dealt with for drawing conclusion of eviction of Petitioner from the suit property. Order passed by learned Principal District Judge, Ahmednagar, is not sufficient to uphold the order passed by the Estate Officer. Reasons recorded by learned Appellate Court could not supplant reasons in original order. Suffice it to say that order passed by Estate Officer is not supported by reasons and as such it is in violation of mandate of Section 5 of the act.

8. Since the order passed by the Estate Officer is unreasoned one cannot sustain. As a result of this, impugned orders are set aside. Case No. 18/2016 is relegated back to the said authority for decision afresh. The Estate Officer to pass a reasoned order keeping in mind scope of Section 5 of Act. Such order be passed within a period of one month from today.

9. Petition is allowed in aforestated terms.

(R. M. JOSHI)
Judge

dyb