

S.R.JOSHI

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

WRIT PETITION NO.1583 OF 2024

Anand T. Nimangre

... Petitioner

Versus

Postmaster General, Mumbai Region
& Others

... Respondents

Mr. V. A. Nagrani i/b. Mr. S. N. Rajpurohit, for the Petitioner.

Mr. R. P. Ojha with Mr. Rakesh Dubey, for the Respondents.

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signed by
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RAJNIKANT
JOSHI
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CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 28th MARCH, 2024

P.C.

Not on board. Mentioned. Upon mentioning, taken on
production board.

Heard learned Counsel for the parties.

2 This Petition is filed under Article 226 of the Constitution of
India, praying for the following reliefs:-

“(a) That this Hon’ble Court may be pleased to issue Writ of Mandamus or any other appropriate Writ Order or Direction under Article 226 of the Constitution of India thereby quash and set aside the order dated 23.06.2022 and 29.01.2024 passed by respondent and the respondent may be allowed to retain the quarter B-1/1 Sahar P & T Colony, Mumbai 400 099;

(b) That the Hon’ble Court may be pleased to issue direction or order thereby be pleased to grant stay on the order dated 29.01.2024 thereby direct the

respondents not to initiate any coercive steps against the Petitioner and no damage/ penal rent to be charged against the Petitioner herein;

(c) The cost of this Petition may be awarded to the Petitioner;

(d) Any other order which the court may deem fit.”

3 We find from the record that Petitioner was issued a notice dated 19th / 22nd January, 2024 under Section 4 (1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 [“the Act”]. The Petitioner had responded to the said notice. The Petitioner was called upon to attend the hearing on 29th January, 2024. The Petitioner contended that Petitioner has appeared and also a representation was made. However, it appears that, instead of passing an order under Section 5 of the Act, which provides for eviction orders to be passed for eviction of unauthorized occupants, the Estate Officer has proceeded to pass an Order dated 29th January, 2024 under Sub-section (1) and clause b (ii) of Sub-section (2) of Section 4 of the Act, and that there is no order under Section 5 of the Act.

4 Being confronted with the said Order, the learned Counsel for the Respondents, on instructions, fairly submitted that the Order dated 29th January, 2024 would be withdrawn. The Petitioner be granted a hearing, and after considering any reply which the Petitioner may file, an appropriate order, in accordance with law, under Section 5 of the Act, shall be passed by the Estate Officer.

5 We permit the Estate Officer to accordingly proceed. In view of the aforesaid, further adjudication of the proceedings is not called for. Let the Petitioner file a reply to the Section 4 (1) notice within 10 days from today.

The Estate Officer shall thereafter fix a date for hearing the Petitioner and pass an impugned order as expeditiously as possible.

6 All contentions of the parties in the pending proceedings are expressly kept open.

7 Disposed of. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)