

Ajay

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

**WRIT PETITION (ST) NO. 5961 OF 2024**

Afzal Nasibdar Shaikh

.. Petitioner

**Versus**

Estate Manager and Ors.

.. Respondents

- .....
- Mr. Ashwin Vasista i/by Prism Legal for the Petitioner.
  - Mr. P.G. Sawant, AGP for Respondents.1 to 3 – State.
  -

.....

**CORAM : MILIND N. JADHAV, J.**

**DATE : JULY 08, 2024.**

**P.C.:**

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** Heard Mr. Vasista, learned Advocate for Petitioner and Mr. Sawant, learned Advocate for Respondents – State.
- 3.** Writ Petition assails the impugned judgment and order dated 11.04.2023 passed by the Competent Authority in Appeal filed under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 which is appended at Exhibit “B” – page No.16 to the Writ Petition.
- 4.** Mr. Vasista would immediately draw my attention to the operative part of the impugned judgment and would submit that the order of eviction stands fully complied with and the Writ Petitioner has

already vacated the subject premises and handed it over to Respondent No.1 - Estate Officer. Necessary averments to that effect are made in paragraph No.xi – page No.9 of the Writ Petition. Possession receipt of handing over is appended at Exhibit “D” – page No.28 of the Writ Petition.

**5.** He would submit that there is also an order for payment of compensation which stood modified by the learned Appellate Court and in terms of operative clause No.3 of the impugned judgment, computation has been effected by Writ Petitioner @ of Rs.10/- per square feet per from 01.11.2019 to 10.11.2023 and infact upto 12.11.2023. He would submit that total computation of compensation as per the above order of the learned Appellate Court would come to Rs.1,04,370/-. He would next submit that substantial retirement benefits and funds of the Writ Petitioner have been withheld due to the aforesaid issue and non-vacating of the Suit premises. According to Writ Petitioner, an amount in excess of Rs.7 lakhs towards gratuity and another Rs.4 lakhs towards surrendered pension has been withheld by the employer. He would submit that Writ Petitioner is in dire need of funds and therefore would urge the Court that appropriate directions be passed to recover the amount of Rs.1,04,370/- out of the outstanding amounts held towards retirement benefit and hand over the balance amounts to the Writ Petitioner.

**6.** An arguable case has been made out by Mr. Vasista for issuance of notice. Respondent No.1 - Estate Manager as also learned AGP on behalf of Respondent Nos.2 and 3 are directed to take appropriate instructions on the aforesaid issue which has been noted by the Court. They shall inform the Court the precise amount of retirement benefits due and payable to the Writ Petitioner and they are also directed to compute the outstanding amount due and payable towards damages as per clause No.3 of the impugned judgment and confirm whether the same would add up to Rs.1,04,370/-. Once these figures are confirmed by the Respondents, appropriate order shall be passed.

**7.** Mr. Sawant, learned AGP at this stage enters appearance on behalf of Respondent No.1 – State. He is directed to speak to the concerned officer of Respondent Nos.1 and 2 and take appropriate instructions in this regard so that this Writ Petition can be disposed of after passing appropriate directions at the stage of admission on the next date.

**8.** Stand over to **15<sup>th</sup> July, 2024**. To be placed under the caption “**First on Board**”.

[ MILIND N. JADHAV, J. ]

Ajay