


MHKO010025892022 	<u>Order below Exh.31 in Reg.Civil Appeal No.122/2022</u> Shamshuddin Gulab Mujavar Proprietor Kolhapur Tea Stall <i>Versus</i> 1) Resident Deputy Collector, Kolhapur and others
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- 1) The appellant has filed present application for grant of stay/status-quo.
- 2) The appellant contended that the respondent had filed suit against the appellant for the safety of the oxygen tank and pipeline located in the premises of CPR Hospital as per the provisions of the Bombay Government Premises Eviction Act. While deciding the said suit, the Court has granted the application of the original respondent with finding that the oxygen tank is in danger due to the business of the appellant in the suit premises. Being aggrieved by the said order, the appellant has filed the present appeal. In the meantime, the oxygen plant also rusted and its project located in the suit premises have been closed due to rust. In view of such facts and while the matter is pending in the Court, the respondent is illegally trying to dispossess the appellant from the CPR premises and there is a possibility of forceful dispossession of appellant from C.P.R. premises at any moment.
- 3) Respondent No.1 filed their say on the said application and contended that the application is not tenable in the eyes of law because the appellant not complied the order passed by this Court below Exh.5 on 03/08/2022 and directed the appellant to argue on final hearing of the appeal within three weeks, failing which the stay order granted by the Court stands vacated automatically. However, the appellants after lapse of 2 & ½ year deliberately not proceeded with the matter.

4) Heard Ld.advocate for the appellant and Ld.APP for respondent No.1.

5) The appellant contended that the respondents are illegally trying to dispossess the appellant from the CPR premises and there is a possibility of taking possession from the appellant. There is no any danger to the Oxygen tank or pipe line or no any encroachment because of appellant's business.

6) It is found that the appellant has filed similar application i.e. Exh.5, which was decided on 03/08/2022 by this Court. At that time also, the appellant argued as argued today that they are ready to proceed with the final argument on appeal and if this Court granted stay till Monday, 20/01/2025, they are ready to argue Appeal i.e. final hearing of the appeal on Monday (20/01/2025).

7) This Court passed an order below Exh.5 on 03/08/2022 on following terms and conditions.

- i) The execution of order passed in Eviction Case No.07/2021, dated 20/06/2022 by respondent No.1 is stayed for the period of 4 (Four) weeks.
- ii) The appellant to argue the appeal (final hearing) within three weeks, failing which the stay order granted by this Court stands vacated automatically.

8) The stay application of the appellant is not maintainable being order of this Court not complied till today. It is Contempt of order of Court, dated 03/08/2022. Hence, this Court proceed to pass following order.

ORDER

Application at Exh.30 is hereby rejected.

Date : 18/01/2025.

(Shailendra Tambe)

District Judge – 3, Kolhapur.