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**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.374 OF 2016
IN
ORIGINAL APPLICATION NO.641 OF 2016**

DISTRICT : MUMBAI

Shri Sanjay S. Sirsikar.

)...Applicant

Versus

1. The State of Maharashtra & Ors.

)...Respondents

Shri P.S. Pathak, Advocate for Applicant.

Smt. A.B. Kololgi, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 23.09.2016

ORDER

1. This Misc. Application is presented in a disposed of OA 641/2016 which OA was brought in relation to the official accommodation that the Applicant was in possession of, in connection with his Government job. He



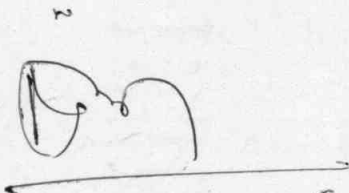
has retired on attaining the age of superannuation, but it seems that he is facing departmental enquiry. It appears that the charge-sheet has not been served so far and the Officer present Mr. Rajesh S. Wadnerkar, Desk Officer, GAD informs that the charge-sheet is awaiting approval of the Hon'ble Minister. The Applicant retired on 31st December, 2015.

2. The order dated 5.7.2016 made by the Hon'ble Chairman would show that the Applicant gave an undertaking on behalf of himself and his wife that they would vacate the Government quarter by 30th September, 2016 peacefully and handover the possession and charge of the said premises to the authority named there and that the Government would not be required to initiate any action or proceedings for eviction. It was further recorded that the present Applicant has not been paid retiral dues as well as pension. In Para 5, it was observed, "It is hoped that the Applicant's provisional pension would be commenced forthwith". It was further recorded that in as much as the Applicant did not receive provisional pension and other dues, he was permitted to continue to occupy the quarter allotted to the Applicant No.1, "by accepting Applicant's undertaking" and in the result, the Applicants were permitted to occupy the Government premises till 30th



September, 2016, "in terms of the undertaking on Affidavit". In so far as the exemption from payment of penal rent was concerned, it was observed that the Applicant would be free to move the Respondents by making a representation in that behalf.

3. In the background of the above order of the Hon'ble Chairman, the present MA mentions *inter-alia* that the Applicant No.2, the wife of the retired Government servant has moved the Hon'ble High Court with a Writ Petition seeking regularization of her services as P.A. in Maharashtra State Human Rights Commission, Mumbai and a copy of that Writ Petition is annexed hereto which bears no number. But they are not legally entitled to retain the Government quarter. However, the retired Government servant has not received further provisional pension since 1st July, 2016 and in such circumstances he is in no position to get alternate accommodation due to financial constraints. The move from exemption from penal rent has been rejected on 8th August, 2016 and in view of the impending DE, he is not even getting the pension. There is no other accommodation to go to, and therefore, in this set of circumstances, the extension of time of six months is sought.



4. Mr. Pathak, the learned Advocate for the Applicant, however, told me that at least a reasonable extension of one month be given in view of the foregoing facts and circumstances.

4. The learned P.O. Smt. A.B. Kololgi stoutly opposed this application and contended that in the set of circumstances herein discussed, no case is made out for any extension.

5. In my opinion, the earlier extension itself having been granted based on the undertaking which must have been made with full knowledge of the family state of affairs and regard being had to the fact that, that undertaking because of the disposal of the OA, no further request for extension can be granted.

6. No doubt, vacation of premises entails hardship, but then this was a fact known to the Applicants and I have every reason to believe that they could have foreseen these difficulties and sought more time from the Hon'ble Chairman. The significance of the matter lies in the fact that if the prayer was made for a longer time, the same might or might not have been granted, and therefore, whatever could not be got directly, if granted indirectly that



would be at the expense of the majesty of law and legal institution. I am, therefore, constrained to reject the prayer for further time and this M.A. is accordingly dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
23.09.2016

23.9.16

Mumbai
Date : 23.09.2016
Dictation taken by :
S.K. Wamanse.