



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Terminus (VT), Mumbai - 400 001
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SHRC/VGM/3/2011/428

Date: 3/3/2011

Case No. – 4295/2008-09

Name of the complainant : Rohit Zharapkar
Alka, 185 Dinath B building
Opp City Light Cinema, L J Road,
Mahim, Mumbai – 400 016.

Vs.

The Commissioner of Police
Mumbai.

Date : 24 February 2011

Coram : Justice V G Munshi, Member

ORDER

Read the averments made in the complaint. Heard the parties.

2. The complainant Rohit Vishwanath Zharapkar resides on the given address along with his wife and son. He does business in the same premises for last 30 years. The Respondent Vishwas Mahajan also does business in the adjacent block. According to the complainant Respondent is a influential person. It is his case that the Respondent all the while harassed him and caused nuisance. He made compliant in Mahim Police Station since year 1996. However, the Police have joined hands with the other side. They did not take any action. According to him the Respondent is causing nuisance to him with malafide intention and motive so that the complainant should vacate the premises. Secondly, according to the complainant the land lord of the



building also filed civil suit against him in the Court and litigation is going on for last number of years. It is his case that the case was decided in his favour and even then the land lord does not accept the rent. According to him the land lord wants to evict him from the rented premises. Therefore, he moved the Commission for necessary action in this matter.

3. The dispute that arose among the complainant and the land lord in respect of the rented premises is of civil nature.

The question arises in this matter is whether Commission has jurisdiction to entertain, deal and decide such issue. Section 12 of the Protection of Human Rights Act, 1993 deals with functions and powers of the Commission. The relevant portion of Sec. 12 (a) (i) of the Act of 1993 is reproduced as under.

Sec. 12 (a) (i)

“The Commission shall perform all or any of the following functions namely (a) inquire suo motu or on a petition presented to it by a victim or any person on his behalf into complaint of (i) violation of human rights or abatement thereof....”

Therefore, the complainant has to make out a case of violation of human rights, in view of the meaning assigned to the definition of “human rights” given under Sec. 2 (1) (d) with Sec. 12 (a) (i) of the Act of 1993.

The Division Bench of High Court Bombay in

A I R 2006 Bombay 44,

(State of Maharashtra Vs Sou Shobha Vitthal Kolte)

held that,

“Once a petitioner comes before Commission complaining of violation of human rights based on the right created under a statute and the statute itself provides a mechanism for redressal by way of appeal, revision or otherwise, the Commission ordinarily should not entertain a complaint and direct the parties to pursue their remedy under the statute.”



HRG OF COMPL. ALONE - RELIEF

In view of the principle laid down in the decision referred to above, the complainant has to pursue proper remedy. The Commission cannot entertain such matter.

4. **Secondly**, it was the grievance made by the complainant that the Respondent harass him and cause nuisance. It was the grievance made by the complainant though he made several complaints in Police Station, the Police did not take any action. Therefore, copy of this complaint be sent to Commissioner of Police, Mumbai for necessary action in this matter. At the same time it is incumbent upon the Respondent Commissioner of Police, Mumbai to see that the complainant does not get any nuisance from the other side and peace law and order is maintained in the premises.

With these observations Case No. 4295/2008-09 is disposed of accordingly.

The Registrar to communicate this order to the parties concerned.



sd/-
✓ (Justice V G Munshi)
Member, SHRC