

MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 7th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

Case No. EO/E/ 13 of 2023

The Board of Mumbai Port Authority

A Statutory Corporation, Successor in title
Of the Board of Trustees of the port of Mumbai
Having its registered Office at Vijay Deep, Shoorji Vallabhdas Marg, Fort,
Mumbai – 400 001.

...Petitioner

V/s

1. **Tata Hydro Electric power supply Co.Ltd.**
A company registered under the Provisions of
The Companies Act, 1956, having its
Address at the Tata Hydro- Electric Power
Supply Co.Ltd, Tata Electric Cos.,
Trombay Thermal Station, Mahul Road,
Chembur, Mumbai- 400 074.

....Respondent No.1

2. **Tata Power Co.Ltd.**
A company registered under the Provisions of
The Companies Act, 1956, having its
Address at the Tata Power Company Ltd,
Tata Electric Cos.Trombay Thermal Station,
Mahul Road, Chembur, Mumbai- 400 074.

...Respondent No.2

Coram: Shri R.J.Sawant,
(Estate Officer)

(Appointed under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971
vide Gazette Notification dated 17.05.2019.)

Represented by: - 1. Advocate for Petitioner: Adv. Prajit Vora i/b M/s. Navdeep Vora and
Associates

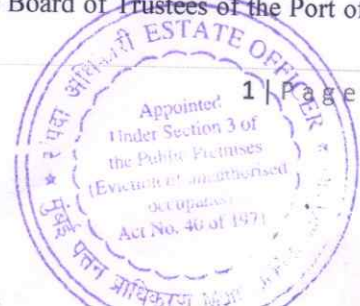
Representative: Mr.Rahul Kumar Meena (Assistant. Execution
Engineer). Ms.Neha Sawant (Legal Manager) and M/s Shamli Tarle.

2. Advocate for Respondent No.1: None of the Respondent No.1

3. Advocate for Respondent No.2: Adv.Unnati Vijay i/b M/s. Rajani
Associates

ORDER

1. The matter is taken up today for final disposal. The factual matrix is required to be put forward in a nutshell in order to understand the chain of events leading to these proceedings.
2. The Petitioners are a Statutory Corporation, constituted under Section 3 of the Major Port Authorities Act, 2021 being the successors in title to the Board of Trustees of the Port of

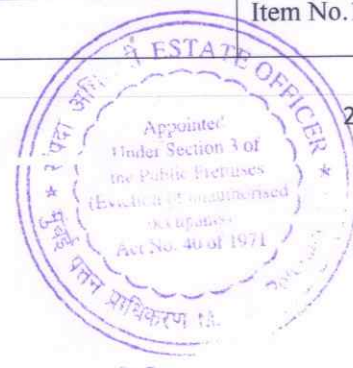


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Mumbai, constituted under the Major Port Trust Act, 1963 since repealed, having its office at the abovementioned address.

3. It is the case of the Petitioner that they are predecessor in title, the Trustees of the Port of Mumbai let out the land adjoining common bund for a drainage channel at Pir Pau Estate, admeasuring 3609.09 sq.mtrs situate at Mumbai to Respondent No.1. It is important to understand the background of the factual matrix in the present case to determine the issue at hand. Initially the Petition Premises was granted on lease to Respondent No.1 from 01.01.1955 to 31.12.1984 for sanctioned use of drainage channel and for conveying discharge for cooling and discharge of storm water from neighboring Plant. The lease was further extended by the Petitioner on 14.02.1985 for a period of further 30 years commencing from 01.01.1985 and expiring on 31.12.2014. Petitioner contends the petition premises was unauthorisedly assigned from Respondent No. 1 to Respondent No.2 and also dues of the Petitioners were not paid by Respondent No.1. Petitioners issued termination Notice to Respondent No.1 on 06.08.2003 by terminating their lease and on 13.09.2023 termination notice was issued to Respondent No.1 terminating holding over of petition premises. The same is produced herein below for the sake of brevity-

Sr. No.	Particulars	Relevant Documents
1.	Copy of Term and Condition dated 19.02.1954.	Item No.1
2.	Copy of Term & Condition dated 14.02.1985 & letter of reminder to accept terms & Condition dated 29.07.1987.	Item No.2
3	Copy of Inspection Reports dated 27.06.2023 & 30.06.2023	Item No.3
4	Copy of the Termination Notice dated 13.09.2023	Item No.4
5	Copy of Acknowledgement dated 14.09.2023	Item No.5
7	Reply to termination notice received from Tata Power Co.Ltd.bt letter dated 16.10.2023	Item No.6
8	Authority letter/Power of Attorney	Item No.7
9	TR.No.365/1991	Item No.8
10	TR.No.296/2020	Item No.9
11	Gov.Maharashtra Gazette No.43	Item No.10



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4. In light of this, the Petitioners therefore pray that:
- i. The Respondent No.1 may be decreed and ordered to hand over to the petitioner, vacant and peaceful possession of Petition premises u/s 5 of PPE Act since Respondent No.2 is surrendering the petition premises.

5. This forum of Law formed its opinion to proceed under the relevant provisions of the Act and issued show cause notices under Section 4 to 7 of the Act dated 28.11.2023 as per the Rules made under the Act. The issuance of show cause notice and affixation of the same was done as per the statutory mandate the particulars of which can be referred to as provided below-

Sr. No.	Particulars	Date
1	Show Cause Notice u/s 4 and 7 (for adjudication of the prayer of the Petitioner for order of eviction)	28.11.2023
2	Notices were affixed on property (Note: Notice was duly served to Respondent 1 and 2.	29.11.2023

6. The Report of pasting along with photograph filed by the petitioner's inspector is brought on record.
7. On the first date of hearing on 05.12.2023, the Petitioners filed service report stating that show cause notices dated 28.11.2023 were duly served to the Respondents by personal service. Receipt of show cause Notices were duly acknowledged by Respondent No. 1 & 2 which is part of record.
8. Further, matter was adjourned for written statement of the Respondents on 15.12.2023. On 18.01.2024, Respondent No.2 filed their Affidavit in Reply on 18.01.2024 and none appeared for Respondent No.1. Respondent No.1 have not filed their written statement on record till date.
9. The Respondent No.1 has failed to submit reply to the Show Cause Notice u/s 4 & 7 of the Act in spite of sufficient chances. Further, nobody from the Respondent No.1 end came to hear any witness or adduce any evidence in support of its occupation as "authorized occupation" in spite of sufficient chances.
10. Upon perusal of the petition, documents on record for the petitioner, it is observed that the petitioner's advocate vide notice dated 13.09.2023 to the Respondent No.1 terminated holding over of tenancy. That the petitioner requested this Hon'ble authority to pass Ex-parte order against Respondent No.1 as it failed to appear and prove his case before this Hon'ble Authority despite several opportunities being granted. Petitioner



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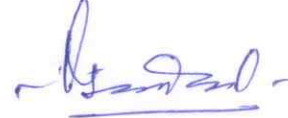
Advocate has argued the case against Respondent No.1. Hence the arguments are taken on record and Therefore, I hereby declare the Respondent No.1 as unauthorised occupants and pass orders under section 5(1) of the PPE Act, 1971 for eviction from the said premises. Accordingly, orders in, **Form 'B'** are issued.

SCHEDULE

Description of the Public Premises

Land adjoining common bund for a drainage channel at Pir Pau Estate admeasuring 3609.09 sq.mtrs or thereabouts at Pir Pau, Mumbai and Bounded:

- On or towards the North by : MbPA land and Drainage channel
On or towards the South by : MbPA land
On or towards the East by : Drainage channel
On or towards the West by : MbPA land



(R.J.Sawant)

ESTATE OFFICER
Signature & Seal of the Estate Office

Place: Mumbai
Date: 02.02.2024



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FORM B

ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC PREMISES

(Eviction of Unauthorised Occupants) ACT, 1971

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...Respondent No.2

ORDER

WHEREAS, I, the undersigned am satisfied for the reasons recorded hereinabove that the Respondents, are in unauthorized occupation of Public Premises specified in the **Schedule** below:

REASONS

Now, THEREFORE, in exercise of the powers conferred on me under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order Respondent No.1 and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above, Respondent No.1 and all other concerned are liable to be evicted from the said premises, if need, by the use of such force as may be necessary.



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02.02.2024
(R.J.Sawant)

ESTATE OFFICER
Signature & Seal of the Estate Officer.

Place: Mumbai

Date: 02.02.2024

