

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/QV (01) Of 2024

Case No. EO/QV (01) of 2024

IN THE MATTER OF:

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.

.....Petitioners

V/s.

Shri. Pramod P. Bhonde

Ex-Port Safety & Fire Officer,

Marine Department,

Flat No. 26, Wilson House, Colaba,

Mumbai-400005

....Respondent

Coram: Shri R.J. Sawant

(Estate Officer)

*(Appointed under Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act,
1971 vide Gazette Notification dated 13.09.2021.*

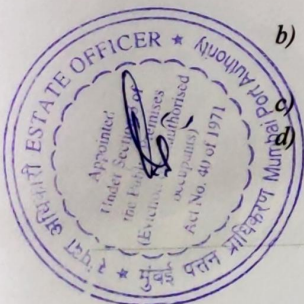
Represented by:

Petitioner's Representative: Shri.Sanjay mayekar,A.S.

Respondent: Shri. Pramod P. Bhonde

ORDER

1. The Petitioner is a Statutory Corporation, constituted under Section 3 of the Major Port Authorities Act, 2021 being the successor in title to the Board of Trustees of the Port of Mumbai, constituted under the Major Port Trust Act, 1963 since repealed, having its office at the above-mentioned address.
2. By way of present order, I am going to decide the eviction Petition filed by the Petitioners under Section 3B, 5 and 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as 'PPE Act').
3. Perusal of the record reveals that the present Petition was initially filed on 06.06.2023 wherein it was prayed as following:-
 - a) *The Eviction of the Respondent from the disputed residence and all person concerned through the Respondent and delivery of vacant and peaceful possession to any the Authorized Officer of the Petitioner.*
 - b) *Payment of penal rent/damages/compensation etc. from 01.05.2022 till vacuation of residence as per Regulations already in force.
Costs of the Proceedings.
Any other relief or reliefs the Honorable Estate Officer may deem fit and proper in Description of the case.*



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/QV (01) Of 2024

Therefore, in light of the above prayers, the Petitioner is before this authority for initiating the eviction proceedings against the Respondent under Sections 3B, 5 and 7 of the PPE Act. Further, it is submitted by the Petitioners that the Residential Quarters has thus been illegally/Unauthorisedly occupied by the Respondent. Termination of allotment of quarter with regard to the Flat No. 26, Wilson House, Group 'B' type of officer's Quarters. Dumayane Road, Colaba, Mumbai-400005 (hereinafter referred to as 'said premises') which was given by the Petitioners' predecessor in title, the Trustees of the Port of Mumbai to the Respondents as residential quarters inter alia claiming an amount of Rs. 17,45,886.00 ps as total rent/damages/compensation.

4. On 04.07.2024 Respondent filed the reply to the Show cause Notice wherein it was contended that he needs 3 months to vacate the quarters and requested to approach the competent authority again for retention of quarters citing wife's medical grounds.
5. From the perusal of the pleadings and documents filed by the parties following facts came to forum:
 - A. As per the Petition filed by the Petitioners:
 - i. Shri P.P. Bhonde retired from the service of Mumbai Port Authority (MbPA) as Port Safety & Fire Officer on 01.11.2021 and he was permitted to retain quarter i.e Flat No. 26, Wilson House for a period of 6 months from 01.11.2021 to 30.04.2022.
 - ii. MbPA issued letter dated 05.07.2022, 14.10.2022 to vacate the quarters after completion of retention period.
 - iii. Thereafter, Shri. P.P.Bhonde made a request vide e-mail dated 27.10.2022 for retention of quarters for period of 4 months citing the reason of wife's ill health as she was undergoing treatment for ailing knee problem at Port Trust Hospital.
 - iv. MbPA, taking into account the request of Shri Bhonde further retention of residential quarters for 6 months was granted from 01.05.2022 to 31.10.2022 and thereafter further retention of 4 months was also granted from 01.11.2022 to 28.02.2023 as per Trustee Resolution No. 141 of 2017
 - v. Shri. Bhonde has retained the quarters for 16 months from permission and was intimated to vacate the quarters but he failed to vacate the said premises.
 - vi. On 28.02.2023 by way of last chance after having granted 16 months to retain the quarters. MbPA issued letter dated 28.02.2023 to vacate the said premises.
 - vii. MbPA vide allotment of quarters cancellation notice dated 01.08.2023 with approval of Dy. Chairperson, Shri Bhonde was directed to vacate the quarters within 30 days from receiving the notice dated 01.08.2023.
 - viii. Shri. Bhonde vide his appeal dated 31.08.2023 to chairperson requested not to forward his case to Estate officer citing his wife medical ground and son's work H-1B US visa extension Accordingly, his appeal was rejected vide Chairperson order dated 14.03.2024.

On 06.06.2024 Petitioners filed the PPE proceedings against Shri. Bhonde wherein he had to show cause before Estate officer as to why he should not be vacated from the quarters to which Shri. Bhonde has filed reply dated 03.07.2024 filed before Estate officer on 04.07.2024 citing that his wife is taking treatment at the Bombay hospital for her fatty liver fibrosis and she is



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/QV (01) Of 2024

also suffering from an ailing knee problem due to severe pain and degenerative changes in the right knee and also for his son H-1B work visa extension is pending before stamping authority.

- x. It was also brought to the notice of Estate officer that his son has booked a flat at Sewri which is under construction so, he has no alternative accommodation.
- xi. On 13.08.2024 sum of Rs. 19, 57, 069.00 (Nineteen Lakhs fifty Seven Thousand Sixty-Nine Only) has been deposited in MbPA account by the Respondent which was communicated by Petitioners cash office vide email dated on 19.08.2024. Petitioner tendered copy of the said email dated 19.08.2024 which is duly taken on record.
- xii. On 20.08.2024 Shri. Bhonde also confirmed having paid amount of Rs. 19, 57, 069.00 (Nineteen Lakhs fifty Seven Thousand Sixty-Nine) to MbPA Account towards Rent/ Damages/Compensation till July.
6. This forum of Law formed its opinion to proceed under the relevant provisions of the Act and issued Show Cause Notices under Sections 3B, 5 & 7 of the Act dated 26.06.2024 and same was served to Respondent by way of Personal Service on 27.06.2024 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.
7. On the scheduled date of appearance and filing reply to the Show Cause i.e. on 04.07.2024, it has been observed that Respondent has appeared and submitted application for retention of quarter for 3 months before the Ld. Authority. The application cannot be adjudicated by this Authority as Petitioners are responsible for Allocation/Cancellation/Extension of residential quarters.
8. On 04.07.2024 Respondent filed the reply to the ShowCause Notice dated 26.06.2024.
9. List of Documents was filed by the Petitioners on 06.06.2024 along with the petition are as follow:-

Item No.	Particulars	Page No.
1.	Copy of letter No. DC/E-TD/2021/3090 dated 13.10.2021	1 to 2
2.	Copy of retention letter dated 09.11.2021	3
3.	Copy of letter dated 05.07.2022	4
4.	Copy of letter dated 14.10.2022	5
5.	E-mail dated 27.10.2022	6 to 7
6.	Copies of further retention letter No. GAD-WD/Q/Retention/Wilson House/5228 dated 15.12.2022	8
7.	Copies of further retention letter No. GAD-WD/Q/Retention/Wilson House/5229 dated 15.12.2022	9
8.	Copy of Letter dated 28.03.2023	10
9.	Copy of Dy. Chairman's approval dated 16.07.2023	11 to 15
10.	Copy of cancellation notice dated 01.08.2023	16 to 17



**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/QV (01) Of 2024

11.	Copy of receipt of cancellation notice dated 02.08.2023	18
12.	Copy indicating pasting of cancellation notice dated 02.08.2023	19
13.	Copy of appeal dated 31.08.2023	20 to 21
14.	Copy of letter dated 29.12.2023	22 to 23
15.	Copy of chairman's approval dated 14.03.2024	24 to 32
16.	Copy of Rejection of appeal letter dated 22.03.2024	33
17.	Copy of E-mail dated 26.06.2024	34 to 35
18.	Statement of arrears	36

10. Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of both the parties. After due consideration of those submissions/arguments, I find the following for decision:
- I. Whether Respondents is unauthorized occupants of the Petition premises and liable to be evicted from the suit premises?
 - II. Whether Respondents are liable to pay damages/compensation as claimed by the Petitioners?

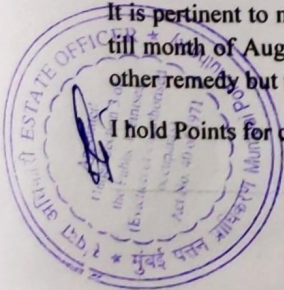
with regards to Point for consideration No. 1, Petitioners have produced the necessary documents in their Petition to support their claim viz. Cancellation of allotment of Quarters Notice dated 01.08.2023 terminated the occupancy of the Respondent (**duly taken on record as item No. 10 of petition**) inter alia terminating retention of quarters which had been granted to the Respondents was terminated and the Respondent has become unauthorised occupant.

However, taking into consideration the settled proposition of law, it is stated that the Respondent in the present case cannot claim any legal right after termination of retention of Quarters. Furthermore, the Respondent has failed to satisfy this Authority about any consent on the part of the Petitioners in occupying the public premises after termination of retention of Quarters.

As regards to Point for consideration No. 2 Petitioner issued statement of arrears/damages dated 26.06.2024 where the Respondent was informed that they are in gross arrears amounting to 17, 45, 886.00ps (Rs. Seventeen Lakhs Forty-five Thousand Eight Hundred and Eighty six Rupees) (**duly taken on record as item no 18 of petition**) the Petitioners allegation of non-payment of dues/charges by the Respondent squarely covers it. During the course of hearing, the Petitioners not only confirmed their claim on account of damages but also asserted their right to claim interest for delayed payment. Considering the evidence produced before me on record the Petitioners has a definite legitimate claim and the Respondent cannot claim continuance of its occupation. The charges claimed on account of rent/damages is on the basis of the Trustees Resolution of the Petitioners as applicable for all the occupiers' tenants/ of the premises in a similarly placed situation. Therefore, I hold point Nos. 2 is proved.

It is pertinent to note that Respondent has paid the outstanding rent/damages/compensation of MbPA till month of August. Due to continuance of retention of quarters unlawfully, Petitioners left with no other remedy but to initiate PPE Proceedings against the Respondent.

I hold Points for consideration No.1, 2 are hereby proved based on the above findings.



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/QV (01) Of 2024

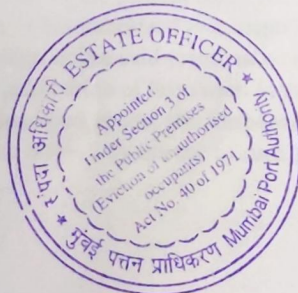
11. After the termination of retention of quarters/holding over of residential quarters by the Respondent was withdrawn. However, the Respondent did not handover the vacant and peaceful possession of the Petition premises to the Petitioners hence the status of Respondent with regard to said premises became that of an 'unauthorized occupant' in terms of Section 2 (fa) and (g) of the PPE Act. The same is reproduced here for the sake of reference-

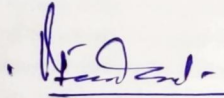
(fa) "residential accommodation occupation" in relation to any public premises means occupation by any person on grant of licence to him to occupy such premises on the basis of an order of allotment for a fixed tenure or for a period he holds office, in accordance with the rules and instructions issued in this regard, made under the authority of the Central Government, a State Government, a Union territory Administration or a statutory authority, as the case may be;

Section 2 (g)-"Unauthorized occupation, in relation to any premises, means the occupation of any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises as expired or has been determined for any reason whatsoever."

12. Upon perusal of the Petition, Respondent reply and documents submitted on record, it is observed that the Petitioners validly and lawfully terminated the Retention of Quarters. of Respondents. In the circumstances, being satisfied as above, I, therefore, declare that the Respondent is in unauthorized occupation of the premises. I hereby declare Respondent as unauthorized occupant and pass order under section 5(1) of the PPE Act, 1971 for eviction from the said premises. Accordingly, orders in **Form 'B'** are issued.
13. Upon perusal of the evidence, I have assessed the Petitioners Statement of Damages/statement of arrears adduced with this order as rent/damages/compensation pay the sum of Rs. 17,45,886.00ps (Rs. Seventeen Lakhs Forty five Thousand Eight Hundred and Eighty six Rupees) which are due for the period from 01.11.2021 to 25.06.2024. Thereafter Respondent has paid the outstanding rent/damages/compensation of MbPA till month of July amounting to Rs. 19, 57, 069.00 (Nineteen Lakhs fifty Seven Thousand Sixty-Nine) therefore, no orders are passed in respect of section 7 Rent/Damages/Compensation.
14. Any additional claim arising if any against the Respondent if any would have to be Bourne by him and to be paid to Petitioners after due intimation.

Place: Mumbai
Date: 20.08.2024




20.08.2024
(R.J. Sawant)
ESTATE OFFICER

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/QV (01) Of 2024

Form B

Order under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971
Case No. EO/QV (01) of 2024

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.**Petitioners**

V/s.

Shri. Pramod P. Bhonde

Ex-Port Safety & Fire Officer,
Marine Department,
Flat No. 26, Wilson House, Colaba,
Mumbai-400005

....**Respondent**

ORDER

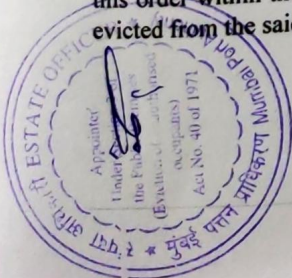
WHEREAS, I, the undersigned am satisfied for the reasons recorded hereinabove that the Respondent, is in unauthorized occupation of Public Premises specified in the Schedule below and have failed to hand over vacant and peaceful possession despite termination of retention of Residential Accommodation.

REASON

Upon perusal of the Petition, documents on record and heard the argument of both parties, it is, *prima facie*, observed that:

1. The termination of Residential Accommodation to the Respondent was terminated for the reason of Unauthorized Occupation vide cancellation of quarters notice dated 01.08.2023. Hence, the Respondent are unauthorized occupants in the said premises.

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 and others 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, the Respondent 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.



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/QV (01) Of 2024

SCHEDULE

Description of the Premises

Flat No. 26, Wilson House, Group 'B' type of Officers Qtrs. Dumayne Road, Colaba, Mumbai-400005



Place: Mumbai
Date: 20.08.2023

(R.J. Sawant)

ESTATE OFFICER

Signature & Seal of the Estate Officer