

**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

CASE NO. EO/E (216) OF 2017

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.



Petitioner

V/s.

- 1) **M/s. Bharat Tiles & Marbles Pvt. Ltd.,**
A company incorporated under
The provisions of the Companies Act, 1956,
Having its address at 32, Bombay Samachar Marg,
Mumbai – 400 023.
- 2) **Shreem Hyundai, Shreem Motors Pvt. Ltd.,**
Address at Plot of land bearing Old RR No. 1935
and Supplementary Plot No. 327,
Mazagaon Reclamation Estate,
Mumbai – 400 010.

Respondents

CORAM: SHRI. V. F. DIAS

(Estate Officer Appointed under Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 vide Gazette Notification dated 19.12.2024)

Petitioner Representative	: Ms Shubhada Suryavanshi (Legal Manager)
Advocate for Petitioner	: Adv. Bharati Garud i/b. M.V. Kini & Co. (Adv. J. B. Ansari having appeared at the earlier stages)
Advocate for Respondent	: Adv. Satish D. Rasal (Adv. Akhilesh Sharma and Adv. Narayan Sahu having appeared at the earlier stages).

FINAL ORDER

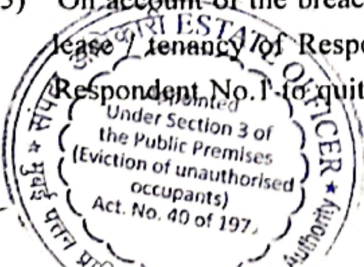
- 1) The Petitioner is a statutory corporation constituted under Section 3 of the Major Port Authorities Act, 2021, being the successor in title to the Board of Trustees of the Port of Mumbai constituted under Section 5 of the Major Port Trusts Act, 1963, since repealed. The Petition was instituted in the name of the Board of Trustees of the Port of Mumbai, and the cause title stands amended to reflect the succession. The Petitioner is the owner of the premises

**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

in question, which are public premises within the meaning of Section 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 ("the Act").

- 2) It is the case of the Petitioner that it agreed to grant Respondent No.1 a consolidated lease of the plot of land bearing Old RR No. 1935 and Supplementary Plot No. 327 at Mazagaon Reclamation Estate, Mumbai – 400 010, admeasuring 3754.96 sq. metres or thereabouts, for a period of 30 years commencing from 01.04.1994 and expiring on 31.03.2024, as per the Charge Certificate dated 09.10.1996 with effect from 01.04.1994, and on the terms and conditions contained in the Petitioner's letter dated 02.01.1996, which terms were unequivocally accepted by Respondent No.1 by its letter dated 22.01.1996. The lease was, however, neither executed nor registered, and Respondent No.1 accordingly continued in occupation subject to the terms and conditions of the said letter dated 02.01.1996 as accepted on 22.01.1996. The sanctioned use of the said premises is any lawful use, as may be permitted by the Municipal Corporation of Greater Bombay in conformity with the D.C. Regulations.
- 3) The Petitioner alleges that Respondent No.1 committed breaches of the terms and conditions governing its occupation, namely —
 - a) unauthorised construction consisting of a watchman chowky and 3 office rooms; watchman cabin partly extended admeasuring 2.71 sq. mtrs.; transformer room admeasuring 10.66 sq. mtrs.; shed for machine admeasuring 9.29 sq. mtrs.; pump room admeasuring 2.69 sq. mtrs.; watchman cabin admeasuring 7.02 sq. mtrs.; toilet and bathroom admeasuring 18.65 sq. mtrs.; and shed partly extended admeasuring 19.97 sq. mtrs.;
 - b) unauthorised subletting / licence / assignment of the entire area in favour of M/s. Nikhil Automobiles;
 - c) covering of a major portion of the entire plot with the help of bamboo and tarpaulin sheet;
 - d) removal of M/s. Nikhil Automobiles and unauthorised subletting of the entire area to Shreem Hyundai, Shreem Motors Pvt. Ltd.; and
 - e) non-submission of the list of actual occupants from the year 2009 to 2016
- 4) The Petitioner further alleges that Respondent No.1 committed default in payment of rent, compensation, damages as per the judgment of the Hon'ble Supreme Court dated 13.01.2004 and further as per the prevalent Schedule of Rates and that substantial arrears became due and payable.
- 5) On account of the breaches committed by the respondent no 1, the Petitioner terminated the lease / tenancy of Respondent No.1 by Advocate's Notice dated 05.11.2015, calling upon Respondent No.1 to quit, vacate and hand over quiet, vacant and peaceful possession of the



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

demised premises on expiry of the notice period. The said Notice was served by RPAD on 09.11.2015, was pasted on the premises on 09.11.2015 by the Petitioner's Inspector Shri N. M. Sharma in the presence of the Petitioner's Inspectors Shri A. P. Waghambare and Shri M. G. Sawant, and was served personally on 20.11.2015 against acknowledgment. Respondent No.1 replied to the said Notice through its Advocate's letters dated 30.11.2015 and 05.01.2016, denying the allegations, but did not vacate the premises.

- 6) The Petitioner contends that upon expiry of the notice period, Respondent No.1 became an unauthorised occupant within the meaning of the Act, and that Respondent No.2, having been unauthorisedly inducted into the said premises by Respondent No.1 and being the present occupant, is likewise an unauthorised occupant. The Petitioner further pleads that the said premises are affected under the Petitioner's own projects and are required by the Petitioner for its own use. The Petitioner accordingly prays for summary proceedings under Sections 4 to 7 of the Act; for vacant and peaceful possession of the said premises after removal of the structures standing thereon; for an order under Section 5A of the Act directing removal of the unauthorised structures particularised in paragraph 3 above, failing which liberty to the Petitioner to remove them at the cost of the Respondents; for compensation and damages and mesne profits for wrongful use and occupation from 01.06.2016 until recovery of possession and for an injunction restraining the Respondents from further parting with possession or carrying out further additions and alterations; and for costs.
- 7) Upon presentation of the Petition, this Authority issued notices dated 03.11.2017 in Form 'A' under Section 4, in Form 'AA' under Section 5A, and in Form 'F' under Section 7 of the Act, calling upon the Respondents to show cause against the proposed eviction, against the removal of the alleged unauthorised construction, and against the proposed order for payment of damages together with interest, and to appear before this Authority on 27.11.2017. The said notices were served by RPAD and were also pasted on the said premises on 13.11.2017 in the presence of two witnesses, in accordance with the Rules framed thereunder.
- 8) On 27.11.2017 the Petitioner's representative placed on record the report of service of the notices and the report of pasting together with photographs, and the same were taken on record. Adv. Akhilesh Sharma filed Vakalatnama on behalf of Respondent No.1 and Adv. Abhishek Kotulkar filed Vakalatnama on behalf of Respondent No.2. Both Respondents thus entered appearance and were, from the outset, aware of the case they were called upon to meet.
- 9) Respondent No.1, M/s. Bharat Tiles & Marbles Pvt. Ltd., filed a detailed Written Statement contesting the Petition, the substance whereof is as follows:

- a) It is a company incorporated under the Companies Act, 1956 and continues as an existing company within the meaning of the Companies Act, 2013. It raises a preliminary objection to the maintainability of the proceedings, contending that its occupation is referable to the registered Lease Deed dated 15.07.1964, presented for registration on 30.07.1964 and



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

registered on 22.04.1965 at Registration No. 2466/64, Book No. 1, pages 16–23, Volume 363, in the office of the Sub-Registrar of Bombay (“the Principal Lease Deed”) a date anterior to the enactment of the Act, so that the leasehold land does not fall within the expression “public premises” as per the Section 2 of the Act; that Clause 5 (operative part) of the Principal Lease Deed entitled it to seek renewal for a further term of 30 years on the same covenants excepting the covenant for renewal; that by letter dated 10.01.1995 it expressed its desire to renew; that a mere renewal does not alter the nature of the lease or the date of its commencement; and that this Authority therefore lacks jurisdiction, the Petitioner being required to approach a court of competent civil jurisdiction.

- b) The notices dated 03.11.2017 were issued without any prima facie material in support of the alleged breaches and are liable to be recalled; the proceedings are an abuse of process, filed mala fide at the instance of disgruntled and interested parties.
- c) It duly complied with the requirements of renewal and paid stamp duty and other charges, and the failure to execute and register a fresh instrument was attributable to the Petitioner’s own delay and default.
- d) There is an internal contradiction in the Petitioner’s own case, in that while asserting a consolidated lease for thirty years from 01.04.1994 to 31.03.2024, the Petitioner described Respondent No.1 in the Petition as a “monthly tenant” and in the Advocate’s Notice dated 05.11.2015 as a tenant “year to year”.
- e) It denies any underletting, subletting, assignment or parting with possession in favour of Respondent No.2 or any other person, whether in breach of Clause 17 of the letter dated 02.01.1996 or otherwise, and denies that Respondent No.2 is “Nikhil Automobiles”. It pleads that it is, jointly with Shreem Motors Pvt. Ltd., operating a Hyundai Service Centre upon the leasehold land, that this does not amount to subletting, and that it has at all material times remained in possession.
- f) It denies the allegation of unauthorised construction, relying upon the extract of the Assessment Book maintained by the Municipal Corporation of Greater Mumbai under Section 163(1) and (2) of the Mumbai Municipal Corporation Act, 1888 (Account Nos. EX1701330000000 and EX1701300010000) and upon a complaint under Section 163 of that Act, to contend that the structures on the leasehold land have been assessed to property tax since 15.06.1973 without inclusion of any additional structure. It further contends that the building standing on the plot belongs to it and that only the bare land belongs to the Petitioner, so that there can be no question of its subletting a building which is its own.
- g) The Advocate’s Notice dated 05.11.2015 is internally inconsistent, in that while alleging unauthorised construction it simultaneously calls upon Respondent No.1 to remove “the building standing thereon”, thereby conceding that the building belongs to Respondent



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

No.1. It replied to the said Notice contending that the lease rent paid by it was in excess of what was due, entitling it to a refund, and refers to its letters dated 05.07.2005, 24.08.2005, 06.09.2005, 06.03.2006, 22.04.2006 and 13.06.2006 addressed to the Petitioner in that behalf.

- h) It denies that the leasehold land is required by the Petitioner for its own use, contending that the averment is devoid of factual foundation, and relies upon the judgment in New India Assurance Co. Ltd. v. Nusli Neville Wadia to contend that any such requirement must be established by cogent evidence, the burden whereof lies entirely upon the Petitioner.
- i) It disputes the claim for arrears of rent, damages, mesne profits and interest, including the claim of interest at 18% per annum with effect from 01.01.1992 based upon T.R. No. 365 of 1991, and the claim of damages at Rs. 76.97 per sq. mtr. per month with 4% escalation with effect from 01.06.2016, and puts the Petitioner to strict proof thereof, while asserting that rent has in fact been paid in excess.
- j) It is not aware whether Mr. Rakesh Saxena, Senior Assistant Estate Manager, is the Constituted Attorney of the Petitioner, or whether Mr. M. S. Mohite, Assistant Estate Manager (Gr. I), was in charge of the leasehold land or duly verified the Petition; and it contends that the proceedings are barred by limitation.

Respondent No.1 accordingly prays that the Petition be dismissed with costs, that the notices issued under Sections 4, 5A and 7 of the Act be withdrawn or recalled, and that the Petitioner be directed to compensate Respondent No.1 in such terms as this Authority may deem fit.

- 10) Respondent No.2 entered appearance through its Ld. Advocate and participated in the proceedings at the initial stages. The record shows that Respondent No.2 sought and obtained inspection of the documents relied upon by the Petitioner, participated in the proceedings concerning inspection and production of documents and on 05.02.2018 acknowledged receipt of the documents furnished by the Petitioner save for the copy of T.R. No. 365 of 1991, which was supplied to its Advocate on that very date. On 12.02.2018 the Ld Advocate appearing for Respondent No.2 stated that she was instructed that one document had not been received, but, upon perusal of the Daily Order Sheet, it was confirmed that the Advocate attending the previous hearing had already acknowledged receipt of all the documents. Thereafter Respondent No.2 filed no Written Statement disputing the Petition on merits, and led no oral or documentary evidence in support of any defence. The proceedings insofar as Respondent No.2 is concerned have therefore proceeded on the material available on record. Respondent No.2 has resolved, by a resolution passed in the meeting of its Board of Directors held on 15.06.2017, to authorise Shri Pranav Vyas in connection with the present proceedings.



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

- 11) By Application dated 30.05.2022 the Petitioner sought amendment of the Petition to rectify a clerical error in paragraph 3 thereof, whereby Respondent No.1 had been described as a "monthly tenant / lessee" instead of a "yearly tenant / lessee". It was contended that the amendment was sought only to bring the pleadings into conformity with the original record and with the Advocate's Notice of termination dated 05.11.2015, in which Respondent No.1 had consistently been described as a yearly tenant, and that no prejudice would result. The application was allowed by this Authority's order dated 21.06.2022, and the amendment was carried out on 29.06.2022 and a copy thereof furnished to Respondent No.1.
- 12) By Application dated 01.03.2024 the Petitioner sought a further amendment of the Petition to bring on record the revised scale of rates of rent, compensation and damages. Respondent No.1 contested the application by a reply which was taken on record on 27.02.2025, whereupon the matter was adjourned for hearing. Written submissions in support of the application were filed on behalf of the Petitioner and a copy thereof was served upon Respondent No.1. On 02.04.2025, though none appeared for the Respondents, this Authority recorded that the oral submissions on behalf of the Petitioner were already on record and treated the reply dated 27.02.2025 of Respondent No.1 as its arguments on the application, so that the defence raised was taken into consideration notwithstanding the absence of the Respondents. On 04.04.2025 Respondent No.1 filed written arguments on the amendment application, which were accepted on record, and a copy of the Petitioner's written arguments was furnished to it. By a reasoned order bearing date 04.04.2025, which was passed and served upon both sides on 24.04.2025, this Authority allowed the amendment, holding that it concerned the prevailing scale of rates of rent, compensation and damages, that it was necessary for a proper adjudication of the dispute, and that it would occasion no prejudice to the other side. The amendment was carried out on 14.05.2025 and a copy of the Amended Petition was received on behalf of Respondent No.1 on 30.05.2025.
- 13) Thereafter the Respondents were repeatedly called upon to file an Additional Written Statement dealing with the amended pleadings. The matter was adjourned for that purpose to 26.05.2025 and then to 30.05.2025, on which date a further opportunity was granted. On 17.06.2025, in the absence of the Respondents, this Authority granted what was expressly recorded as a last chance and adjourned the matter to 23.06.2025. On 23.06.2025 the request of Respondent No.1 for further time was granted over the objection of the Petitioner, in order to ensure full compliance with the principles of natural justice, and the matter was adjourned to 30.06.2025. On 14.07.2025, when none appeared for the Respondents, this Authority, despite the Petitioner's objection, granted one final opportunity, again expressly by way of last chance, and adjourned the matter to 21.07.2025. On 21.07.2025 neither the Respondents nor their learned Advocate appeared and no Additional Written Statement was filed. In these circumstances this Authority recorded that ample opportunity had been afforded and closed the opportunity of the Respondents to file an Additional Written Statement.



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

14) The foregoing record demonstrates that the Respondents were afforded repeated and adequate opportunity at every material stage to contest the amendment application, to place their submissions on record and to supplement their defence, and that the closure of their right to file an Additional Written Statement was resorted to only after repeated default despite several adjournments and successive last opportunities. The requirements of natural justice have accordingly been satisfied.

15) In view of the rival pleadings of the parties, the following issues fall for determination by this Authority:

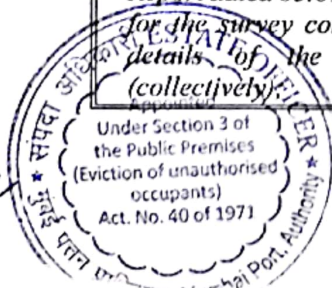
- (1) *Do the Petitioners prove that the tenancy of Respondent No.1 was properly terminated, and that the Notice dated 05.11.2015 is valid and lawful and was duly served upon the Respondents?*
- (2) *Do the Petitioners prove that the premises in the Petition are public premises within the meaning of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971?*
- (3) *Does Respondent No.1 prove that the claim of the Petitioner in the Petition is barred by limitation?*
- (4) *Do the Petitioners prove that the Respondents are unlawful occupants of the premises in the Petition?*
- (5) *Do the Petitioners prove that they are entitled to recover from the Respondents damages for wrongful use and occupation of the premises in the Petition, from the date of filing of the Petition until the date of recovery of possession, as per paragraph 11 of the Petition?*
- (6) *Whether the Petitioners prove that the Respondents are in arrears of rent / compensation, taxes and other charges in respect of the said premises in the Petition amounting to Rs. 38,54,714.96 up to 31.01.2018, with interest as on 31.01.2024, as per the particulars mentioned in the Statement of Arrears at Exhibit 'B', or at all?*
- (7) *Do the Petitioners prove that Respondent No.1 has illegally carried out additions and alterations of a permanent nature in the premises in the Petition, as mentioned in paragraph 6 of the Petition?*
- (8) *Whether the Petitioners prove that the Respondents are in arrears of damages amounting to Rs. 1,70,29,060.86 for the period from 01.01.2019 to 31.01.2024, with interest as on 31.01.2024, as per the particulars mentioned in the Statement of Damages at Exhibit 'C', or at all?*
 - i. *Do the petitioner prove that they are entitled to recover damages from respondent no 1 in respect of the premises as per mentioned ion para 11A of the amended petition?*



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

- ii. Do the petitioners prove that the respondent no.1 is in arrears of compensation/ damages, taxes and other charges in respect of the premises as per mentioned in para 10 A in the amended petition.
- (9) Do the Petitioners prove that Respondent No.1 has illegally and without the permission of the Petitioner sublet the premises in the Petition to Respondent No.2?
- (10) Do the Petitioners prove that the premises in the Petition are affected under the projects of the Petitioner and are therefore required by the Petitioner for its own use?
- (11) Do the Petitioners prove that they are entitled to recover from the Respondents vacant and peaceful possession of the premises in the Petition, as per the detailed particulars mentioned in prayer (b) of the Petition?
- (12) What decree?
- (13) What order?
- 16) Respondent No.1 has, in addition, raised a preliminary objection going to the very competence of this Authority to entertain the proceedings. An objection to jurisdiction is a pure question of law which goes to the root of the matter. It is also, in substance, incorporated within Issue No. 2. It is accordingly dealt with, before the issues are answered.
- 17) The Petitioner filed the Affidavit of Evidence of Shri Mahesh S. Mohite, Assistant Estate Manager (Gr. I)/ PW1, together the list of documents relied on by the petitioner PW1. Respondent No.1 filed their Say on Documents dated 28.07.2022, and the Petitioner filed there reply thereto. After hearing both sides upon the objections raised, this Authority, by order dated 08.02.2023, admitted and marked the documents tendered by the Petitioner PW1 as Exhibits PW1-1 to PW1-20, in the following particulars:

Document	Exhibits
Original Charge Certificate dated 09.10.1996;	Exhibit PW1-1
Original terms and conditions contained in the Petitioner's letter dated 02.01.1996 together with the acceptance letter of Respondent No.1 dated 22.01.1996 (the copy being admitted by Respondent No.1, the contents being denied);	Exhibit PW1-2
Report dated 31.07.2006 of the surveyor Shri J. M. Shembekar, with sketch and calculation sheet of unauthorised construction;	Exhibit PW1-3
Report dated 03.01.2015 of the Draughtsman Shri A. D. Hardikar for the survey conducted on 27.12.2014 and 02.01.2015, with details of the unauthorised constructions and sketch (collectively);	Exhibit PW1-4

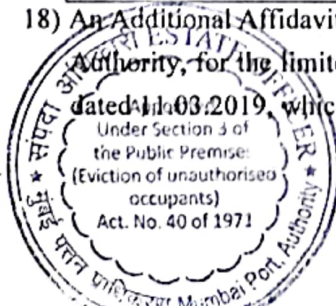


**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

Office copy of the complaint / letter dated 03.02.2011 addressed to the Municipal Corporation regarding unauthorised subletting / assignment of the plot, with 11 photographs, together with the office copy of the Petitioner's recording letter of even date addressed to Respondent No.1	Exhibit PW1-5
Reply of Respondent No.1 dated 06.05.2011	Exhibit PW1-6
Two inspection reports of the Petitioner's Inspector Shri N. M. Sharma dated 29.10.2015 and 27.11.2015, recording the illegal repairs and replacement of the roof of the structure in the plot in the Petition	Exhibit PW1-7
Survey report dated 11.12.2015 of the Petitioner's Draughtsman Shri R. V. Gangurde, with a sketch of the site showing in yellow the further unauthorised construction carried out, in comparison with the earlier site reports;	Exhibit PW1-8
Office copy of the Petitioner's letter dated 30.01.2016 concerning the said illegal construction;	Exhibit PW1-9
Three reports of the Petitioner's Senior Inspector Shri N. M. Sharma dated 29.12.2015, 22.06.2016 and 09.06.2017, with submissions recording the details of the occupants of the premises in the Petition and the user thereof by such occupants	Exhibit PW1-10
Office copy of the Petitioner's letter dated 16.07.2016 concerning the said unauthorised construction;	Exhibit PW1-11
Office copy of the Advocate's Notice dated 05.11.2015 and the report of personal service and pasting of the same;	Exhibit PW1-12 & 13
Copy of the RPAD effecting service of the said Notice upon Respondent No.1;	Exhibit PW1-14
The returned RPAD packet addressed to the illegal occupant	Exhibit PW1-15
The original reply letters of Respondent No.1's Advocate dated 30.11.2015 and 05.01.2016	Exhibit PW1-16
Certified true copy of T.R. No. 13 of 2018;	Exhibit PW1-17
The Statement of Damages;	Exhibit PW1-18
Certified true copy of T.R. No. 365 of 1991	Exhibit PW1-19
The Powers of Attorney dated 02.08.2004 in favour of Shri Rakesh Saxena and dated 14.03.2012 in favour of Shri Mahesh Sonu Mohite.	Exhibit PW1-20

18) An Additional Affidavit of Evidence of PW-1 dated 13.07.2023 was filed with the leave of this Authority, for the limited purpose of meeting the contentions raised in the Written Statement dated 11.03.2019, which had been filed after the original Affidavit of Evidence.



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

19) The cross-examination of PW-1 was listed upon the marking of the documents on 03.04.2023. It commenced on 14.06.2023 and was not concluded on that date. It was thereafter listed on 27.06.2023, 06.07.2023, 13.07.2023, 03.08.2023, 21.08.2023, 07.09.2023, 22.09.2023 and 11.10.2023. Throughout that period the ground of adjournment advanced on behalf of Respondent No.1 was accepted, including on two occasions bereavements in the family of its Ld. Advocate, and express last opportunities were granted on 26.04.2023, on 06.07.2023 and again on 22.09.2023, the last coupled with a warning that upon failure to appear the cross-examination would be closed and the matter proceeded with. On 11.10.2023, neither Respondent No.1 nor its Ld. Advocate having appeared despite that warning, the cross-examination was closed. Thereafter, on the application of Respondent No.1 dated 04.12.2023, to which the Petitioner filed a reply on 10.01.2024 and Respondent No.1 an affidavit in rejoinder dated 24.01.2024, this Authority by reasoned order dated 09.02.2024 set aside that closure, in the interest of natural justice, and permitted the cross-examination to be continued. It was thereafter listed afresh on 15.02.2024, on which date it could not be resumed as PW-1 was absent, and, upon the amendment proceedings being concluded, on 06.01.2026, when PW-1 attended in person and the Ld Advocate for Respondent No.1 did not appear and again on 13.01.2026 and 03.02.2026. On 03.02.2026, none having appeared on behalf of the Respondents and this Authority passed an order closing the right of the Respondents to cross-examine PW-1.

The stage of cross-examination thus remained open for nearly 3 years and was listed on some 16 occasions. A closure once made was set aside upon Respondent No.1's own application and the opportunity restored to it in full; and the restored opportunity was allowed to lapse in the same manner as the first. The Code of Civil Procedure and the Indian Evidence Act does not apply in its strict sense to a proceeding under the Act, what is required is that the principles of natural justice be observed and those principles require that a fair opportunity be given, not that one be kept open indefinitely against a party which will not take it. I am satisfied that ample opportunity was afforded to the Respondents at this stage.

20) The Petitioner thereafter filed, on 20.02.2026, the Affidavit of Evidence of its second witness, Ms. Shubhada Suryawanshi, Legal Manager of the Petitioner, affirmed on that date, in support of the amended pleadings. PW-2 deposes to the Scale of Rates approved by the Tariff Authority for Major Ports and by the Petitioner's Board and notified for the successive periods to the escalation applicable to each such Scale of Rates, to the rates of interest sanctioned from time to time, to the sums which the Petitioner claims by way of arrears and of damages, and the periods to which they relate and to the authority under which the Petition was signed and verified. The Respondents were given repeated opportunity to file their say on the documents annexed to that affidavit, and that stage was closed on 01.04.2026. By order passed on 20.04.2026 the said documents were admitted and marked as Exhibits 'A' to 'F', namely:

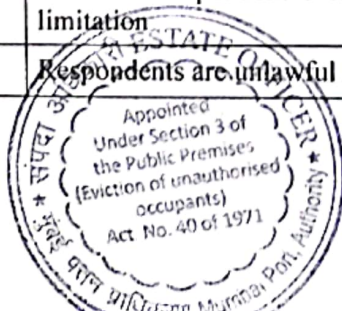


MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

Sr.	Document	Exhibit
1.	TAMP Gazette Notification No. 521 dated 28.10.2021 and TAMP Gazette Notification No. 552 dated 12.11.2021 (collectively);	PW-2/A
2.	Government of Maharashtra Gazette Notifications dated 28.04.2022, 14.09.2022 and 21.03.2023 and Notification No. 43 dated 26.04.2023 (collectively)	PW-2/B
3.	Statement of Arrears and Damages	PW-2/C
4.	Certified copy of T.R. No. 365 dated 12.12.1991 and T.R. No. 296 of 2020 (collectively);	PW-2/D
5.	Copy of the Power of Attorney dated 02.08.2004	PW-2/E
6.	Copy of the Letter of Authority dated 12.02.2024. The cross-examination of PW-2 was closed on 05.05.2026, none having appeared for the Respondents	PW-2/F

- 21) PW-2 further deposes that the Petition was signed by Shri Rakesh Saxena, Assistant Estate Manager and constituted Attorney of the Petitioner, under the Power of Attorney dated 02.08.2004 (Exhibit 'E', and also Exhibit PW1-20), that it was verified by Shri Mahesh Mohite, Assistant Estate Manager (Gr. I), as the officer in charge of the subject matter, and that she is herself authorised to depose under the Letter of Authority dated 12.02.2024 (Exhibit 'F').
- 22) Respondent No.1 led no evidence in support of its Written Statement and examined no witness. The opportunity to file an Affidavit of Evidence on behalf of the Respondents was closed on 19.05.2026, this Authority having recorded that nobody had appeared on their behalf since September 2025. Respondent No.2 neither filed a Written Statement nor led any evidence. Final arguments were heard, whereupon the matter was reserved for orders.
- 23) I have perused the Petition and the Amended Petition with their Annexures, the Written Statement of Respondent No.1, the Say on Documents and the reply thereto, the affidavits of evidence and the exhibited documents, the Daily Order Sheets, and the written and oral submissions advanced on behalf of the parties.
- 24) For the reasons recorded hereafter, the findings on the issues framed above are as follows:

No.	Issues	Findings
1	Valid termination and service of the Notice dated 05.11.2015	In the affirmative
2	Premises are 'public premises' under Section 2 of the Act	In the affirmative
3	Whether Respondent No.1 proves the claim is barred by limitation	In the negative
4	Respondents are unlawful / unauthorised occupants	In the affirmative



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

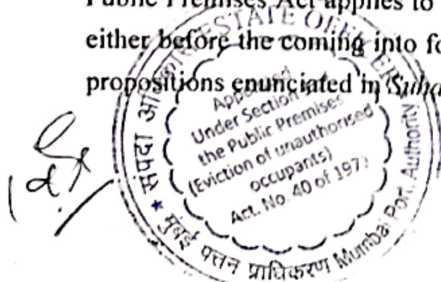
5	Entitlement to damages for wrongful use and occupation (paragraph 11 of the Petition)	In the affirmative in principle; quantum as directed
6	Arrears of Rs. 38,54,714.96 up to 31.01.2018 with interest as on 31.01.2024 (Exhibit 'B')	In the affirmative in principle; quantum as directed
7	Unauthorised additions and alterations of a permanent nature (paragraph 6 of the Petition)	In the affirmative
8	Damages of Rs. 1,70,29,060.86 for 01.01.2019 to 31.01.2024 with interest as on 31.01.2024 (Exhibit 'C')	In the affirmative in principle; quantum as directed
9	Unauthorised subletting / parting with possession in favour of Respondent No.2	In the affirmative
10	Premises required for the Petitioner's own use / affected under its projects	In the affirmative
11	Entitlement to recover vacant and peaceful possession	In the affirmative
12	Decree	As directed
13	Order	As directed

REASONS

A. Preliminary objection: jurisdiction of this Authority

25) The preliminary objection of Respondent No.1 is that its occupation is referable to a registered Lease Deed dated 15.07.1964, which predates the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and that the said premises therefore fall outside the ambit of the Act. It is further contended that the arrangement entered into in 1996 was merely a renewal of the earlier lease and did not alter either the character of the tenancy or the date of its commencement. The objection is contrary to the statutory scheme and, more importantly, is no longer open in view of the law declared by the Hon'ble Supreme Court in *Life Insurance Corporation of India & Anr. v. Vita*, (2026) 3 SCC 427.

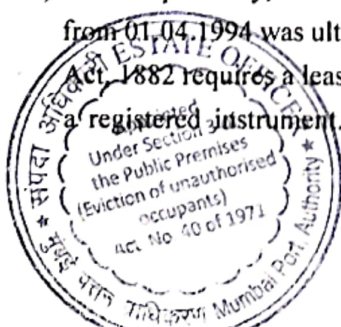
26) In *LIC v. Vita*, the Hon'ble Supreme Court considered the precise question whether the Public Premises Act applies to tenancies which were created prior to the coming into force of the Act. After considering the earlier Constitution Bench decision in *Ashoka Marketing Ltd. v. Punjab National Bank*, (1990) 4 SCC 406, and the subsequent decision in *Suhas H. Pophale v. Oriental Insurance Co. Ltd.*, (2014) 4 SCC 657, the Hon'ble Supreme Court categorically held that the Public Premises Act applies to tenancies which may have been created and were in existence either before the coming into force of the Act or which were created thereafter. The contrary propositions enunciated in *Suhas H. Pophale* were expressly overruled.



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

- 27) The Hon'ble Supreme Court in *LIC v. Vita* has identified two conditions material for applicability of the Act: first, the tenanted premises must fall within the definition of "public premises" under Section 2(e); and secondly, the premises must be in "unauthorised occupation" within the meaning of Section 2(g). The date on which the tenancy was originally created is therefore not determinative of the jurisdiction of the Estate Officer. The Court further held that termination of the tenancy of public premises by a notice under Section 106 of the Transfer of Property Act, 1882 is one of the modes by which the occupation of the tenant becomes unauthorised after the date specified in such notice and that this principle applies equally to tenancies created before or after the coming into force of the Public Premises Act.
- 28) Applying the above binding declaration of law, the objection of Respondent No.1 founded upon the alleged Lease Deed dated 15.07.1964 must fail at the threshold. That the said premises belong to the Petitioner is not in dispute. Indeed, the Respondent No.1 claims its very right of occupation through the Petitioner and its predecessor. The premises consequently answer the description of "public premises" under Section 2(e) of the Act. Their statutory character depends upon their ownership by the Petitioner, a statutory Authority and is not displaced merely because Respondent No.1 traces its original entry into possession to a period anterior to the enactment of the Act. The antiquity of the tenancy therefore furnishes no answer to the jurisdiction of this Authority.
- 29) There is an additional factual difficulty in the case of Respondent No.1. The Principal Lease Deed dated 15.07.1964, upon which the jurisdictional objection is founded, was never tendered in evidence by Respondent No.1, was never exhibited and does not form part of the evidentiary record of this proceeding. A party seeking to oust the jurisdiction of a statutory Authority on the strength of an instrument cannot succeed without proving the very instrument upon which that objection rests.
- 30) The contemporaneous documentary record, in fact, militates against Respondent No.1's present contention that the arrangement of 1996 was merely a continuation of the 1964 lease. Clause 24 of the terms and conditions dated 02.01.1996 (Exhibit PW1-2) required Respondent No.1 to execute a fresh Lease Deed and to deposit the expenses incidental to its preparation, execution and completion. By its acceptance letter dated 22.01.1996, Respondent No.1 accepted those terms and conditions and itself referred to the Port Trust having offered to issue fresh leases in respect of the premises, besides depositing the stipulated legal expenses. Its own contemporaneous conduct is therefore inconsistent with its present plea that no fresh arrangement was contemplated.
- 31) More importantly, it is admitted that no fresh Lease Deed for the proposed term commencing from 01.04.1994 was ultimately executed or registered. Section 107 of the Transfer of Property Act, 1882 requires a lease of immovable property for a term exceeding one year to be made by a registered instrument. In the absence of such an instrument, no registered lease for the



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

proposed thirty-year term came into existence. The Respondent No.1's continued occupation thereafter, it remained subject to lawful determination and once the authority to occupy stood validly determined, its continued occupation attracted Section 2(g) of the Act. This conclusion is reinforced by *LIC v. Vita*, which expressly recognises termination under Section 106 of the Transfer of Property Act as one of the modes by which occupation of public premises becomes unauthorised, irrespective of whether the original tenancy was created before or after the Public Premises Act.

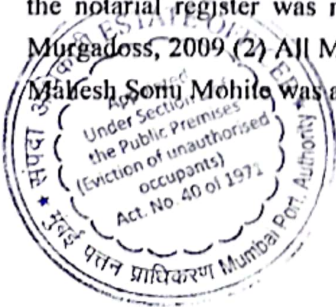
The jurisdictional objection therefore fails on both law and fact. The law declared in *LIC v. Vita* puts beyond controversy that a pre-existing tenancy does not, by reason of its antiquity, stand outside the Public Premises Act. Once the premises satisfy Section 2(e) and the authority to occupy has expired or been determined so as to attract Section 2(g), the statutory machinery under the Act becomes applicable. This Authority accordingly holds that this Authority has jurisdiction to entertain and adjudicate the present proceedings under Sections 4, 5A and 7 of the Act. Section 15 correspondingly bars the jurisdiction of the Civil Court in respect of matters which the Estate Officer is empowered by the Act to determine.

The further objection that the notices dated 03.11.2017 are vitiated for want of prima facie material anterior to their issuance is equally without substance. The issuance of show-cause notices under Sections 4, 5A and 7 constitutes the initiation of the statutory enquiry on the Estate Officer forming the requisite opinion upon the material placed before him. It is the enquiry which follows, after affording the occupant an opportunity to contest the allegations and lead its material that determines whether the proposed action is ultimately justified. Respondent No.1's contention effectively seeks proof of the case as a condition precedent to commencement of the enquiry and thereby reverses the statutory sequence. Further, any incidental discrepancy in dates appearing in the administrative forms, being merely typographical and having caused no prejudice, cannot invalidate the proceedings. Respondent No.1 entered appearance and filed a detailed Written Statement traversing the allegations against it. It was therefore fully aware of the case it was required to meet. A defect of form which neither misleads the party nor causes prejudice does not vitiate the statutory proceeding.

B. Objection as to authority to sign and verify the Petition

32) By paragraph 29 of its Written Statement, Respondent No.1 pleaded that it was not aware whether Shri Rakesh Saxena, Senior Assistant Estate Manager, is the Constituted Attorney of the Petitioner, or whether Shri M. S. Mohite, Assistant Estate Manager (Gr. I), was in charge of the leasehold land or duly verified the Petition. In its Say on Documents it went further, objecting to the Power of Attorney dated 02.08.2004 on the ground that the serial number of the notarial register was not mentioned, and relying upon *M/s. K.B.C. Pictures v. A. R. Murgados*, 2009 (2) All MR 108. The Power of Attorney dated 14.03.2012 in favour of Shri ~~Makesh Sonu Mohite~~ was admitted.

19/11



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

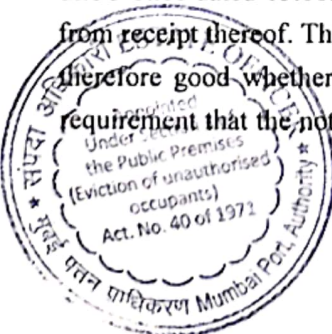
- 33) The objection fails. The Power of Attorney dated 02.08.2004 is on record as Exhibit PW1-20 and again as Exhibit 'E'; it is executed under the Common Seal of the Board, signed by the Chairperson and the Secretary and expressly empowers the named officers, in clauses 3 to 7 thereof, to commence proceedings before the Estate Officer under this Act for recovery of possession and of rent, compensation, mesne profits and damages, and to sign, declare and verify pleadings, affidavits, applications and petitions for that purpose. PW-2 has deposed that the Petition was signed by Shri Rakesh Saxena as constituted Attorney under that instrument and verified by Shri Mahesh Mohite as the officer in charge of the subject matter and that evidence stands untested, the Respondents having declined the cross-examination expressly reserved to them.
- 34) The reliance on K.B.C. Pictures is misplaced. That decision holds that where the notarial register entry is not produced, the presumption under Section 85 of the Indian Evidence Act does not arise. It says nothing about a document whose execution is otherwise proved. Here the instrument is not proved by presumption alone. It is a deed of the Petitioner's own Board, bearing its Common Seal and the signatures of its Chairperson and Secretary, produced from the Petitioner's own custody. Nor, in any event, do the strict rules of the Indian Evidence Act apply to a proceeding under this Act. Respondent No.1 has not suggested that the Petitioner disowns the Petition or that it was instituted without the Board's authority, which is the only mischief the objection could sensibly address.

Finding: The Petition was signed and verified by officers duly authorised in that behalf. The objection is rejected.

C. Findings on the above issues and the reasons thereof:

Issue No. 1 - Validity and service of the Notice dated 05.11.2015

- 35) Respondent No.1 contends that there is an irreconcilable inconsistency in its being described as a "monthly" tenant in the Petition as originally filed and as a tenant "year to year" in the Notice of termination. The description in the Petition was a clerical error, which has since been corrected by the amendment allowed on 21.06.2022. A corrected clerical error is not a contradiction going to the root of the case, and Respondent No.1 has pointed to no prejudice flowing from it.
- 36) More fundamentally, nothing turns upon the point. Section 106 of the Transfer of Property Act, as amended by Act 3 of 2003, requires 6 months' notice in the case of a lease deemed to be from year to year and 15 days' notice in the case of a lease deemed to be from month to month. The Notice dated 05.11.2015 called upon Respondent No.1 to quit on the expiry of 6 months from receipt thereof. That period satisfies the higher of the two requirements and the Notice is therefore good whether the tenancy be characterised as yearly or as monthly. Further, the requirement that the notice expire with the end of the year or month of the tenancy no longer



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

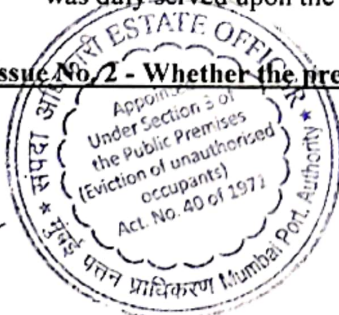
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

obtains, that stipulation having been omitted by the amendment of 2003; and sub-section (3) of Section 106 provides that a notice shall not be deemed invalid merely because the period mentioned in it falls short of the statutory period, where the proceeding is instituted after the expiry of the statutory period. The present Petition was instituted on 17.07.2017, long after the expiry of six months from the service of the Notice. No infirmity in the notice period survives.

- 37) The Notice was in writing and was signed on behalf of the Petitioner by its Advocate, as Section 106(2) permits. Service stands proved by three independent modes by registered post with acknowledgment due (Exhibit PW1-14) by pasting on the said premises on 09.11.2015 (Exhibit PW1-13) and by personal service on 20.11.2015 against acknowledgment. Service is in any event placed beyond controversy by Respondent No.1's own reply letters dated 30.11.2015 and 05.01.2016 (Exhibit PW1-16, admitted by Respondent No.1), which proceed upon the footing that the Notice had been received and deal with its contents paragraph by paragraph. A party which has replied to a notice on its merits cannot thereafter dispute its receipt.
- 38) As to the contention that the Notice is self-contradictory in calling upon Respondent No.1 to remove "the building standing thereon" while alleging unauthorised construction, the two are not inconsistent. The Notice does indeed state that the building on the subject plot belongs to Respondent No.1, and I proceed on that footing. But a direction to deliver up the land free of structures is the consequence of the covenant to reinstate on determination it is not an admission that every structure standing on the land was lawfully erected, nor does ownership of a superstructure confer any right to retain the soil after the tenancy has ended. The argument confuses the relief sought with the ground on which it is sought.
- 39) It was also urged that the Notice dated 05.11.2015 particularises only two breaches - unauthorised construction of a watchman chowky and office rooms and unauthorised subletting to M/s. Nikhil Automobiles, whereas the Petition alleges a wider set of breaches. The point does not assist Respondent No.1. The function of the notice under Section 106 of the Transfer of Property Act is to determine the tenancy; it is not a charge-sheet and it does not have to exhaust every ground on which the lessor may thereafter proceed. What the Act requires, as a matter of natural justice, is that the occupant be told with sufficient particularity the grounds of the proposed eviction before an order is made against it. That function is performed by the notices under Sections 4, 5A and 7 dated 03.11.2017, which set out each of the breaches relied upon and to which Respondent No.1 filed a detailed reply. Hence, no prejudice arises.

Finding on Issue No. 1: In the affirmative. The tenancy of Respondent No.1 stood validly terminated upon expiry of the period specified in the Notice dated 05.11.2015, and the Notice was duly served upon the Respondents.

D. Issue No. 2 - Whether the premises are "public premises"



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

- 40) That the said premises vest in the Petitioner, a statutory port authority, is not in dispute; Respondent No.1's own case is that it holds under a lease granted by the Petitioner and its predecessor. The premises therefore answer the description of "public premises" in Section 2(e) of the Act. The only contrary contention advanced by Respondent No.1 is the one founded upon the date of the Principal Lease Deed, which has been considered and rejected above.

Finding on Issue No. 2: In the affirmative.

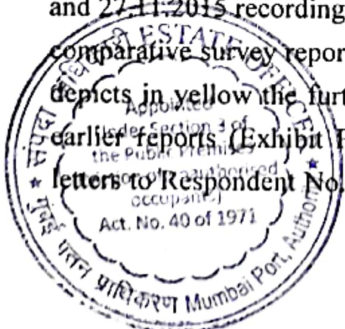
E. Issue No. 3 - Limitation

- 41) The burden on this issue, as framed, lies upon Respondent No.1. Beyond a bare assertion in its Written Statement that the proceedings are barred, Respondent No.1 has led no evidence and advanced no particulars identifying the provision relied upon or the date from which time is said to run.
- 42) In any event, the objection fails on its own terms. A claim by a lessor to recover possession from a lessee is governed by Article 67 of the Limitation Act, 1963, which prescribes 12 years from the date on which the tenancy is determined. The tenancy here was determined upon expiry of six months from receipt of the Notice dated 05.11.2015, that is, in the course of 2016. The Petition was instituted on 17.07.2017. The claim for possession is therefore well within time.
- 43) A claim for damages for use and occupation by an unauthorised occupant is, moreover, a recurring claim which arises de die in diem and is not barred merely because occupation commenced earlier. Accordingly, while Respondent No.1 has not established that any part of the claim is barred.

Finding on Issue No. 3: In the negative. Respondent No.1 has failed to prove that the claim, or any part of it, is barred by limitation.

F. Issue No. 7 - Unauthorised additions and alterations

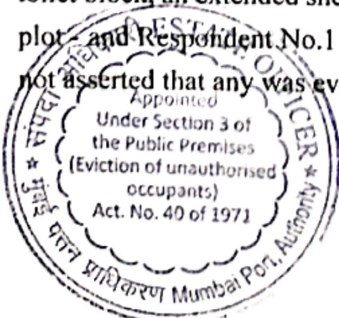
- 44) The Petitioner's case on this issue does not rest upon assertion. It rests upon a documented sequence of inspections and surveys spanning 9 years, carried out by different officers, each exhibited and each recording the same progressive encroachment: the report dated 31.07.2006 of the surveyor Shri J. M. Shembekar with sketch and calculation sheet (Exhibit PW1-3); the report dated 03.01.2015 of the Draughtsman Shri A. D. Hardikar for the survey conducted on 27.12.2014 and 02.01.2015, with particulars and sketch of the unauthorised constructions (Exhibit PW1-4); the two inspection reports of Inspector Shri N. M. Sharma dated 29.10.2015 and 27.11.2015 recording illegal repairs and replacement of the roof (Exhibit PW1-7); and the comparative survey report dated 11.12.2015 of the Draughtsman Shri R. V. Gangurde, which depicts in yellow the further construction carried out as against the position recorded in the earlier reports (Exhibit PW1-8). These are supported by the Petitioner's contemporaneous letters to Respondent No.1 dated 30.01.2016 (Exhibit PW1-9) and 16.07.2016 (Exhibit PW1-



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

11), which record the objection at the time. The consistency of the record across 3 surveying officers and 4 separate site visits over nine years is a powerful indicator of reliability.

- 45) Respondent No.1 objected to the admission of these reports on the ground that their authors had not been examined and that objection was considered and overruled by the order dated 08.02.2023, the documents being admitted subject to the Respondents' liberty to test their authenticity in cross-examination. Respondent No.1 did not avail itself of that liberty. It did not cross-examine PW-1, notwithstanding that its right to do so, once closed on 11.10.2023, was expressly restored to it by the order dated 09.02.2024 and thereafter kept open on four further dates. It led no evidence of its own, examined no witness and produced no contrary survey. In a proceeding to which the Indian Evidence Act does not apply *stricto sensu* and in which the sole requirement is compliance with the principles of natural justice, an exhibited contemporaneous record which the party affected has declined every opportunity to test must be given its natural weight.
- 46) Against this, Respondent No.1 offers two answers, neither of which withstands examination.
- 47) The first is the extract of the Assessment Book of the Municipal Corporation of Greater Mumbai under Section 163 of the Mumbai Municipal Corporation Act, 1888, said to show assessment to property tax since 15.06.1973 without the inclusion of any additional structure. The answer is that assessment to property tax and authorisation of construction are entirely distinct matters serving entirely distinct purposes. The Assessment Book is a fiscal record maintained to levy rates. It is neither a sanction nor a regularisation and it says nothing whatever about whether the prior written permission of the Petitioner, as lessor, was obtained for the structures. A structure may be assessed to tax and yet be wholly unauthorised as between lessor and lessee. Nor can a municipal record be prayed in aid against the lessor's own contemporaneous survey record. In any event, the assessment extract was not tendered in evidence by Respondent No.1 and remains at the level of pleading.
- 48) The second is that the building on the plot belongs to Respondent No.1 and that only the bare land belongs to the Petitioner. I have accepted that the Petitioner's own Notice acknowledges the ownership of the building. But that acknowledgment carries Respondent No.1 no further than the building as it stood. Ownership of a building erected upon demised land does not carry with it a licence to add to it, extend it or erect further structures upon the land in disregard of the covenants on which the land is held. The covenants attach to the land as demised. What the exhibited surveys establish is not the existence of the original building but the accretion to it over time - an extended watchman cabin, a transformer room, a pump room, a machine shed, a toilet block, an extended shed and a bamboo and tarpaulin covering over a major portion of the plot - and Respondent No.1 has produced no prior written permission for any of them and has not asserted that any was ever sought.

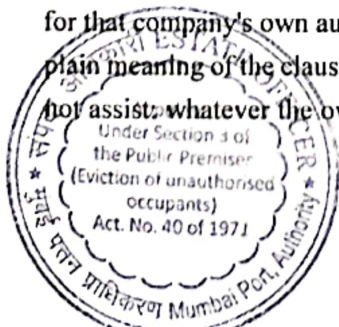


MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

Finding on Issue No. 7: In the affirmative. The extent of the unauthorised construction is as particularised in paragraph 3(a) above and in prayer clause (d) of the Petition.

G. Issue No. 9 - Unauthorised subletting / parting with possession

- 49) Clause 17 of the terms accepted by Respondent No.1 on 22.01.1996 (Exhibit PW1-2) provides that the lessee shall not assign, sublet, underlet, sell, sell on ownership or part with possession of the premises or any part or interest therein, whether on leave and licence basis or otherwise, nor make any change in the sanctioned user thereof, without the prior consent in writing of the Board of Trustees. The clause is deliberately wide. It is not confined to subletting properly so called. It reaches any parting with possession or with any interest, by whatever label and it separately prohibits any change in the sanctioned user.
- 50) Respondent No.1 objects that Respondent No.2 is not "Nikhil Automobiles". That objection has a foundation in the drafting of the Petition and it is right to acknowledge it: paragraph 5 of the Petition, as drawn, describes the demised premises as having been sublet to "Respondents No.2, M/s Nikhil Automobiles", whereas the cause title names Shreem Hyundai, Shreem Motors Pvt. Ltd. as Respondent No.2. To that extent the pleading is inaccurate. But the inaccuracy is one of description and not of substance. The same paragraph goes on immediately to state that thereafter Respondent No.1 sublet the entire premises to Shreem Hyundai, Shreem Motors Pvt. Ltd. without the prior permission of the Petitioner and that the said premises are presently used by Shreem Hyundai, Shreem Motors Pvt. Ltd., who is Respondent No.2; and paragraph 6(d) pleads in terms that Respondent No.1 removed M/s. Nikhil Automobiles and unauthorisedly sublet the entire area to Shreem Hyundai, Shreem Motors Pvt. Ltd. Read as a whole, the Petition alleges a sequence of two successive inductions, the first of Nikhil Automobiles and the second, after that arrangement ceased, of Respondent No.2. Respondent No.1 has plainly understood the case in that sense, for it has answered it in that sense. No prejudice has been shown and a defect in description which misleads nobody does not defeat a proceeding.
- 51) The breach is, in any event, established upon Respondent No.1's own pleaded case. Respondent No.1 admits, both in its Written Statement and in its Say on Documents, that it is, jointly with Shreem Motors Pvt. Ltd., a distinct corporate entity operating a Hyundai Service Centre upon the leasehold land. It does not assert that the prior written consent of the Petitioner was ever sought, still less obtained. Its answer is that this is not "subletting". But Clause 17 does not stop at subletting: it forbids parting with possession or interest "whether on leave and licence basis or otherwise", and it separately forbids any change in the sanctioned user. The induction of a distinct company into the joint occupation and commercial exploitation of the demised land, for that company's own automobile business, is a parting with possession or interest within the plain meaning of the clause. The submission that the building belongs to Respondent No.1 does not assist, whatever the ownership of the superstructure, Respondent No.1 cannot introduce a



MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

third party into occupation and use of the demised land in derogation of a covenant which attaches to that land.

- 52) The Petitioner's case is, moreover, supported by evidence. The complaint dated 03.02.2011 addressed to the Municipal Corporation regarding unauthorised subletting and assignment, with 11 photographs, together with the recording letter of even date to Respondent No.1 (Exhibit PW1-5), and Respondent No.1's own reply dated 06.05.2011 (Exhibit PW1-6, admitted), establish that the Petitioner raised the objection contemporaneously and that Respondent No.1 was aware of it. The three reports of the Senior Inspector dated 29.12.2015, 22.06.2016 and 09.06.2017 (Exhibit PW1-10) record the identity of the actual occupants and the user made by them. To this may be added the circumstance, pleaded and unanswered, that Respondent No.1 did not furnish the list of actual occupants for the years 2009 to 2016 despite being called upon to do so.

Finding on Issue No. 9: In the affirmative.

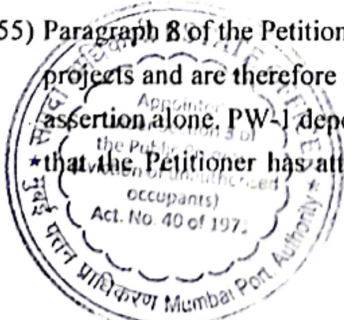
H. Issue No. 4 - Whether the Respondents are unauthorised occupants

- 53) Section 2(g) of the Act defines "unauthorised occupation" as the occupation by any person of public premises without authority for such occupation, and includes the continuance in occupation by any person of public premises after the authority under which he was allowed to occupy has expired or has been determined for any reason whatsoever. Upon the findings recorded on Issues Nos. 1, 7 and 9 - valid determination of the tenancy of Respondent No.1 with effect from the expiry of the Notice dated 05.11.2015, breach of Clause 17 by the induction of Respondent No.2 without consent, and unauthorised construction the continued occupation of the said premises by Respondent No.1 falls squarely within that definition.
- 54) Respondent No.2 occupies through or under Respondent No.1, by an arrangement made without the Petitioner's consent and in breach of the covenant. It can be in no better position than the party through whom it claims and its occupation is likewise without authority. Respondent No.2 has moreover, filed no Written Statement and led no evidence to assert any independent right, although it entered appearance, obtained inspection of the Petitioner's documents and was represented before this Authority until 17.02.2018.

Finding on Issue No. 4: In the affirmative. Both Respondents are in unauthorised occupation of the said premises within the meaning of Section 2(g) of the Act, and have been so since the expiry of the period specified in the Notice dated 05.11.2015.

I. Issue No. 10 - Requirement for the Petitioner's own use

- 55) Paragraph 8 of the Petition pleads that the said premises are affected under the Petitioner's own projects and are therefore required by the Petitioner for its own use. That plea does not rest on assertion alone. PW-1 deposes to it on oath in paragraph 21 of his Affidavit of Evidence, adding that the Petitioner has attained the status of a Special Planning Authority, and produces in



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

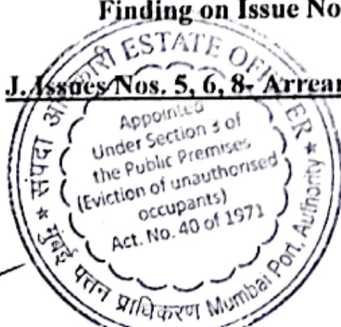
UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

support the certified true copy of T.R. No. 13 of 2018 passed by the Petitioner's Board, admitted and marked as Exhibit PW1-17.

- 56) Exhibit PW1-17 bears out that deposition. It records that the Ministry of Shipping mandated every Major Port to prepare a Master Plan; that the Petitioner appointed a consultant for the master planning of its township lands by T.R. No. 97 dated 29.11.2016; that an area of 500 hectares was identified for the Conceptual Master Plan, which area the resolution states in terms to include the Mazagaon area; that the Plan contemplates a detailed design brief for each and every plot, to become part of the lease agreement for that plot; and that by Resolution No. 13 dated 27.04.2018 the Board approved the modified Conceptual Master Plan so that the further statutory actions necessary for its implementation could be taken. The said premises, being Old RR No. 1935 and Supplementary Plot No. 327 at Mazagaon Reclamation Estate lie within the area so identified.
- 57) That evidence is un rebutted. Respondent No.1 denied the averment in its Written Statement, but a denial in a pleading is not evidence. It led no evidence of its own, produced nothing to show that the said premises fall outside the area covered by the Master Plan, and did not test the deposition of PW-1 in cross-examination although the opportunity was afforded to it repeatedly and once restored after closure.
- 58) In a proceeding to which the Indian Evidence Act does not apply in its stricter sense, sworn testimony supported by a resolution of the Petitioner's Board, which the party affected has declined every opportunity to challenge, must be accepted.
- 59) That the argument Respondent No.1 builds upon New India Assurance Co. Ltd. v. Nusli Neville Wadia, (2008) 3 SCC 279, namely that the Petition must fail if a requirement for the Petitioner's own use is not established by cogent evidence. That decision is undoubtedly a decision upon this very Act, but it does not bear that weight. It identifies two classes of case under Section 4: persons in occupation without authority, including those who have breached the conditions of their tenancy, in which class the onus lies upon the occupant to show why eviction should not be ordered; and a residual class of tenants sought to be evicted upon a ground requiring proof of fairness and reasonableness on the part of the landlord, to which class alone the requirement of establishing bona fide need attaches. The present case falls in the first class. The Petitioner seeks eviction upon determination of the tenancy for breach, not upon its own requirement; the composite character of proceedings under Sections 4, 5A and 7 does not import any such requirement into a case founded upon breach; and the reliefs granted would stand upon the findings on Issues Nos. 1, 4, 7 and 9 even had this issue failed.

Finding on Issue No. 10: In the affirmative.

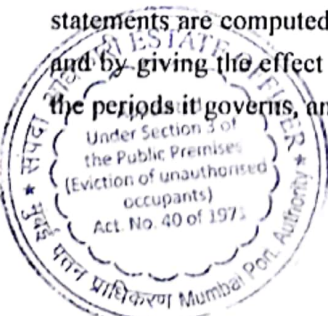
J. Issues Nos. 5, 6, 8: Arrears, damages and interest



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

- 60) These issues concern the Petitioner's money claims and are taken together, since they turn upon the same foundation. Section 7 of the Act empowers this Authority to assess damages on account of unauthorised occupation, and the parties' own agreed measure is the natural basis for that assessment.
- 61) The Petitioner led the evidence of PW-2, Ms. Shubhada Suryavanshi, in support of the amended pleadings. She deposes to the Scale of Rates approved by the Tariff Authority for Major Ports and by the Petitioner's Board and notified for the successive periods, to the escalation applicable to each such Scale of Rates, to the rates of interest sanctioned from time to time, and to the sums claimed and the periods to which they relate, and she proves Exhibits 'A' to 'F'. That evidence stands unchallenged. The Respondents filed no say on the documents though repeatedly called upon to do so, and the cross-examination of PW-2 was closed on 05.05.2026, none having appeared on their behalf. I have considered her affidavit and accept it.
- 62) I uphold the basis of computation. Damages are to be computed at three times the Scale of Rates approved and notified from time to time for the zone in which the said premises fall, as proved by PW-2 through Exhibits 'A' and 'B', with escalation and interest at the rates sanctioned by the Petitioner's Board from time to time, as proved by Exhibit 'D'. Effect is to be given to the judgment of the Hon'ble Supreme Court dated 13.01.2004 in *Jamshed Hormusji Wadia v. Board of Trustees, Port of Mumbai*, (2004) 3 SCC 214, for the periods it governs and credit is to be given for all sums lying to the account of Respondent No.1 and for all payments established to have been made, by which credit its plea of having paid in excess is answered. Arrears run to 31.05.2016 and damages from 01.06.2016 until delivery of possession, so that the two claims are continuous and do not overlap.
- 63) The Petitioner is not confined to the sums recited in Issues Nos. 6 and 8, which are framed with the words "or at all". Prayer clause (e) claims damages at a rate until recovery of possession, and paragraph 11A of the Amended Petition quantifies that claim only to a stated date. The claim is therefore framed by reference to a rate and to a period ending upon delivery of possession, and not by reference to a fixed sum.
- 64) I therefore uphold the claims. In exercise of the power conferred by Section 7 of the Act, I have assessed the Statement of Arrears and the Statement of Damages of the Petitioner and computed upto 31.07.2026 with interest as on 31.07.2026, which show arrears of compensation, taxes and other charges up to 31.05.2016 amounting to Rs. 25,96,610.24 and damages on account of wrongful use and occupation for the period from 01.06.2016 to 31.07.2026 amounting to Rs. 1,05,15,13,946.18, totalling Rs. 105,41,10,556.42 (Rupees One Hundred and Five Crore Forty One Lakh Ten Thousand Five Hundred and Fifty Six and Forty Two Paise Only). Those statements are computed upon the Scale of Rates and at the rates of interest proved by PW-2 and by giving the effect to the judgment of the Hon'ble Supreme Court dated 13.01.2004 for the periods it governs, and give credit for the sums lying to the account of Respondent No.1.



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

Respondent No.1 is accordingly directed to pay to the Petitioner the said sum of Rs. 105,41,10,556.42 (Rupees One Hundred and Five Crore Forty One Lakh Ten Thousand Five Hundred and Fifty Six and Forty Two Paise Only), being the compensation and arrears together with damages up to 31.07.2026 with interest as on 31.07.2026, and to pay further damages from 01.08.2026 until the date of delivery of vacant possession with 2% increase per annum in every October, with interest at the sanctioned rate until realisation. A copy of the said Statements is annexed to and served along with this Order.

K. Issue No. 11 - Entitlement to possession

65) Upon the findings recorded on Issues Nos. 1, 2, 4, 7 and 9, the Petitioner has established its entitlement to recover vacant and peaceful possession of the said premises from both Respondents, as prayed in prayer clause (b) of the Petition.

Finding on Issue No. 11: In the affirmative.

L. Issue No. 12 & 13

66) For the reasons recorded above, the Petition succeeds. It is ordered as follows:

- a) It is declared that Respondent No.1, M/s. Bharat Tiles & Marbles Pvt. Ltd., and Respondent No.2, Shreem Hyundai, Shreem Motors Pvt. Ltd., are in unauthorised occupation, within the meaning of Section 2(g) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, of the said premises, namely the Plot of land bearing Old RR No. 1935 and Supplementary Plot No. 327 at Mazagaon Reclamation Estate, Mumbai - 400 010, admeasuring 3754.96 sq. metres or thereabouts, and bounded on or towards the North by Signal Hill Avenue Road, on or towards the South by Mumbai Port Trust Old RR No. 2004, on or towards the East by MbPT Plot Nos. 306, 307 and 308 and partly by Boat Hard Road, and on or towards the West by Quay Street.
- b) Under Section 5 of the Act, the Respondents, and all persons who may be in occupation of the said premises or any part thereof through or under them, are directed to vacate the said premises and to hand over to the Petitioner vacant and peaceful possession thereof, together with all structures standing thereon, within 15 DAYS time. I make it clear that all person/s whoever may be in occupation is liable to be evicted by this Order, failing which the Petitioner shall be at liberty to have them evicted and to take possession in accordance with Section 5 of the Act.
- c) The Respondent no. 1 is directed to pay the Compensation arrears upto 31.07.2026 with interest as on 31.07.2026, including damages amounting to Rs. 105,41,10,556.42 (Rupees One Hundred and Five Crore Forty One Lakh Ten Thousand Five Hundred and Fifty Six and Forty Two Paise Only.), within one month from the date of this Order, failing which the Petitioner shall be entitled to recover the same, in accordance with



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai - 400 001.

Accordingly, orders in, Form 'B', Form 'G' are issued.

SCHEDULE
Description of the Petition Premises

All that plot of land bearing Old R.R. No. 1935 and Supplementary Plot No. 327, situated at Mazagaon Reclamation Estate, Mazagaon, Mumbai - 400 010, admeasuring 3754.96 sq. mtrs., or thereabouts, and bounded as follows:

On or towards the North by : Signal Hill Avenue Road

On or towards the South by : Mumbai Port Trust Old R.R. No. 2004

On or towards the East by : MbPT Plot Nos. 306, 307 and 308, and partly by Boat Hard Road

On or towards the West by : Quay Street

Place: Mumbai

Date: 14.08.2026




(V.F. Dias)
ESTATE OFFICER

**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

CASE NO. EO/E (216) OF 2017

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.

...

Petitioner

V/s.

1) M/s. Bharat Tiles & Marbles Pvt. Ltd.,

a company incorporated under
the provisions of the Companies Act, 1956,
having its address at 32, Bombay Samachar Marg,
Mumbai – 400 023.

2) Shreem Hyundai, Shreem Motors Pvt. Ltd.,

Address at Plot of land bearing Old RR No. 1935
and Supplementary Plot No. 327,
Mazagaon Reclamation Estate,
Mumbai – 400 010.

...

Respondents

FORM B

(Order under sub section (1) of Section 5 of The Public Premises (Eviction of Unauthorised Occupants) Act 1971)

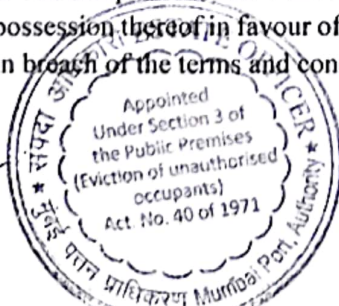
WHEREAS I, the undersigned am satisfied for the reasons recorded hereinabove that the Respondents above named are in unauthorised occupation of Public Premises specified in Schedule below and have failed to handover the vacant and peaceful possession despite termination of Tenancy.

REASONS

Upon perusal of the petition, documents on record, the evidence led and heard the argument of advocate for the petitioner, it is observed that

1. The Petitioner's Advocate vide legal notice dated 05.11.2015 to the Respondent No. 1 terminated the lease/tenancy and the said notice was duly served upon the Respondents.

2. The Respondent No. 1 carried out unauthorised construction upon the said premises and parted with possession thereof in favour of the Respondent No. 2 without the prior written consent of the Petitioner, in breach of the terms and conditions dated 02.01.1996 accepted by it on 22.01.1996.



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

3. The Respondent No. 1 is in arrears of rent/compensation, Damages, taxes and other charges in respect of the said premises.

4. Upon expiry of the period specified in the said notice the tenancy stood determined and the Respondents have since continued in occupation without authority within the meaning of Section 2(g) of the said Act.

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 M/s. Bharat Tiles & Marbles Pvt. Ltd. & Anr. 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 Respondents 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.

SCHEDULE
Description of the Petition Premises

All that piece and parcel of Plot of land bearing Old R.R. No. 1935 & Supplementary Plot No. 327, admeasuring 3754.96 sq. meters or thereabouts situated at Mazagaon Reclamation Estate, Mumbai and bounded as under:

On or towards the North by : Signal Hill Avenue Road

On or towards the South by : Mumbai Port Trust Old R.R. No. 2004

On or towards the East by : MbPT Plot Nos. 306, 307 and 308, and partly by Boat Hard Road

On or towards the West by : Quay Street

Place: Mumbai

Date: 14.08.2026



(Signature)
(V. F. Dias)
ESTATE OFFICER

**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

CASE NO. EO/E (216) OF 2017

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.

...

Petitioner

V/s.

- 1) M/s. Bharat Tiles & Marbles Pvt. Ltd.,**
A company incorporated under
The provisions of the Companies Act, 1956,
Having its address at 32, Bombay Samachar Marg,
Mumbai – 400 023.
- 2) Shreem Hyundai, Shreem Motors Pvt. Ltd.,**
Address at Plot of land bearing Old RR No. 1935
and Supplementary Plot No. 327,
Mazagaon Reclamation Estate,
Mumbai – 400 010.

...

Respondents

FORM – G

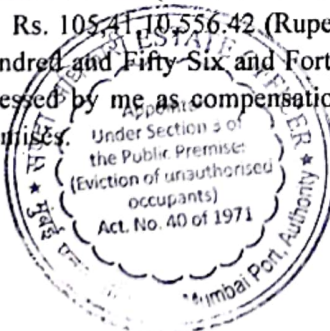
(Order under Sub Section (2) and (2-A) of Section 7 of The Public Premises (Eviction of Unauthorised Occupants) Act 1971)

WHEREAS, I, the undersigned am satisfied that you the Respondent are unauthorized occupation of the Public Premises in the Schedule below.

AND WHEREAS, by written notice dated 03.11.2017 you were called up on to show cause on 27.11.2017, why an order requiring you to pay arrears of compensation for wrongful use and occupation of the premises should not be made;

AND WHEREAS, I have considered your objections produced by you;

NOW, THEREFORE, in exercise of the powers conferred on me by sub section 2 of Section (7) of the Public Premises (Eviction of Un authorized Occupants) Act, 1971, I hereby order you to pay the sum of Rs. 105,41,10,556.42 (Rupees One Hundred and Five Crore Forty One Lakh Ten Thousand Five Hundred and Fifty Six and Forty Two Paise Only.) within one month from the date of the Order as assessed by me as compensation and damages on account of your unauthorised occupation of the premises.



**MUMBAI PORT AUTHORITY
OFFICE OF THE ESTATE OFFICER**

UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971
The Estate Officer, 6th Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.

In exercise of the power conferred by sub-section 2-A of the section 7 of the said Act, I also hereby order you to pay interest @ 15% per annum on the above sum till its final payment.

In the event of your refusal or failure to pay the compensation & damages, or any instalments hereof within the said period or in the manner aforesaid, the amount will be covered as arrears of land revenue.

SCHEDULE

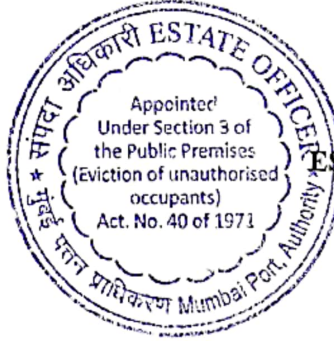
Description of the Petition Premises

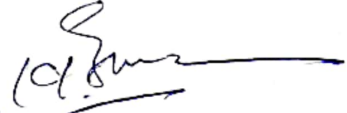
All that plot of land bearing Old R.R. No. 1935 and Supplementary Plot No. 327, situated at Mazagaon Reclamation Estate, Mazagaon, Mumbai - 400 010, admeasuring 3754.96 sq. mtrs., or thereabouts, and bounded as follows:

On or towards the North by : Signal Hill Avenue Road
On or towards the South by : Mumbai Port Trust Old R.R. No. 2004
On or towards the East by : MbPT Plot Nos. 306, 307 and 308, and partly by Boat Hard Road
On or towards the West by : Quay Street

Place: Mumbai

Date: 14.08.2026




(V.F. Dias)
ESTATE OFFICER

MUMBAI PORT AUTHORITY
ESTATE DIVISION

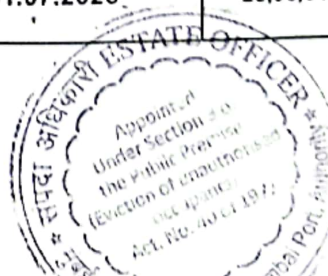
DATE : 05/08/2026

STATEMENT OF ARREARS AS PER SC JUDGEMENT

NAME OF THE TENENT	:	MS BHARAT TILES & MARBLE PVT.LTD.
PLOT NO	:	R R 1935
CODE	:	20701343
AREA (Sqmts)	:	3754.96
FSI	:	0.5

1. ALL CALCULATIONS/RATES ARE SUBJECT TO VERIFICATION/AUDIT.
2. THIS STATEMENT DOES NOT INCLUDE ANY CHARGES/PENALTIES PAYABLE FOR REGULARISATION OF BREACHES,IF ANY
3. ERRORS AND OMISSIONS EXCEPTED.

Sr. No.	CHARGES	RS.
1	COMPENSATION ARREARS FROM 01.10.1982 TO 31.03.2004 (excluding premium/ penalties on a/c of breaches)	61856.98
2	ADD : INTEREST ON ARRAERS UPTO 31.03.2004 AS ON 31.07.2026	266250.96
3	TOTAL ARREARS UPTO 31.03.2004	328107.94
4	LESS : AMOUNT LYING IN MD A/C	1768179.98
5	AMOUNT PAYABLE WITH INTEREST ON ARREARS UPTO 31.03.2004 WITH INTEREST AS ON 31.07.2026 (excluding premium/ penalties on a/c of breaches)	-1440072.04 (A)
6	COMPENSATION ARREARS FROM 01.04.2004 TO 30.09.2012 (As per S.C.Judgment)	831384.77
7	INTEREST ON COMPENSATION ARREARS FROM 01.04.2004 TO 30.09.2012 as on 31.07.2026	2884144.55
8	INTEREST BILLED BUT NOT PAID FROM 01.04.2004 TO 30.09.2012 as on 31.07.2026	7048.15
9	SERVICE TAX ARREARS FROM 01.06.2007 TO 30.09.2012	804.00
10	INTEREST ON SERVICE TAX/GST ARREARS FROM 01.06.2007 TO 30.09.2012 as on 31.07.2026	0.00
11	SERVICE TAX INTEREST BILLED BUT NOT PAID FROM 01.06.2007 TO 30.09.2012	0.00
12	AMOUNT PAYABLE AS PER SCJ FROM 01.04.2004 TO 30.09.2012 WITH INTEREST AS ON 31.07.2026	3723381.47 (B)
13	COMPENSATION ARREARS FROM 01.10.2012 TO 31.05.2016 (As per S.C.Judgment)	110210.41
14	INTEREST ON COMPENSATION ARREARS FROM 01.10.2012 TO 31.05.2016 as on 31.07.2026	203090.41
15	INTEREST BILLED BUT NOT PAID FROM 01.10.2012 TO 31.05.2016	0.00
16	SERVICE TAX/GST ARREARS FROM 01.10.2012 TO 31.05.2016 (As per S.C.Judgment)	0.00
17	INTEREST ON SERVICE TAX/GST ARREARS FROM 01.10.2012 TO 31.05.2016 as on 31.07.2026	0.00
18	SERVICE TAX INTEREST BILLED BUT NOT PAID FROM 01.10.2012 TO 31.05.2016	0.00
19	AMOUNT PAYABLE AS PER SCJ FROM 01.10.2012 TO 31.05.2016 WITH INTEREST AS ON 31.07.2026	313300.82 (C)
Total Arrears payable upto 31.05.2016 with interest as on 31.07.2026 (Excluding premiums etc.) (A + B + C)		25,96,610.24 0.26 Crs



**MUMBAI PORT AUTHORITY
ESTATE DIVISION**

DATE : 05/08/2026

Statement of Damages payable for the period from 01.06.2016 to 31.07.2026 with interest as on 31.07.2026

NAME OF THE TENANT	MS BHARAT TILES & MARBLE PVT LTD.
PLOT NO	RR 1935
CODE	20701343
AREA (Sqmts)	3754.98
ACTUAL FSI	0.31
EFFECTIVE REVISED FSI	0.53
SERVICE CHARGES (upto 31.05.2023)	1877.48
SERVICE CHARGES (wef 01.06.2023)	7509.82

NOTE : 1. ALL THE CALCULATIONS ARE PROVISIONAL AND SUBJECT TO AUDIT / VERIFICATION
2. ERRORS AND OMISSIONS EXCEPTED
3. THE RATES ARE INCREASED BY 4% PER ANNUM EVERY OCTOBER UPTO 31.05.2023 AND
2% PER ANNUM EVERY OCTOBER W.E.F. 01.06.2023

Particulars	SOR		
	2012-17	2017-22	2022-27
Zone as per Ready Reckoner 2012, 2017 & 2022	10/80	10/80	10/80A
Rate per sq mtr. per month for FSI 1 for Non-Home Occupation as on 01.10.2012,	84.50	938.50	444.80
01.10.2017 and 01.06.2023 for SOR 2012-17, 2017-22 & 2022-27 respectively			
TAMP Order no	43/2021	42/2021	
Gazette Notification No	521	552	43
Gazette Notification date	28.10.2021	12.11.2021	28.04.2023

Rate as per TAMP APPROVED SOR

Zone	SOR 2012-2017	SOR 2017-2022	SOR 2022-2027
Period	Rate FSI = 1	Rate FSI = 1	Rate FSI = 1
01.10.2012 to 30.09.2013	84.50		
01.10.2013 to 30.09.2014	87.88		
01.10.2014 to 30.09.2015	91.41		
01.10.2015 to 30.09.2016	95.06		
01.10.2016 to 30.09.2017	98.84		
01.10.2017 to 30.09.2018		938.50	
01.10.2018 to 30.09.2019		976.04	
01.10.2019 to 30.09.2020		1015.08	
01.10.2020 to 30.09.2021		1055.68	
01.10.2021 to 30.09.2022		1097.91	
01.10.2022 to 31.05.2023		1141.83	
01.06.2023 to 30.09.2023			444.80
01.10.2023 to 30.09.2024			453.70
01.10.2024 to 30.09.2025			462.77
01.10.2025 to 30.09.2026			472.03

Damages payable from 01.06.2016 at three times of approved SOR rates

Period	Rate for FSI 1.00 as per SOR (A)	Rate for FSI 0.5 as per SOR (B)	Three times rate for Damages C = (B X 3)	Damages p.m (C X Area)
01.06.2016 to 30.09.2016	95.06	47.53	142.59	535419.75
01.10.2016 to 30.09.2017	98.84	49.43	148.29	556823.02
01.10.2017 to 30.09.2018	938.50	469.25	1407.75	5286044.94
01.10.2018 to 30.09.2019	976.04	488.02	1464.06	5497486.74
01.10.2019 to 30.09.2020	1015.08	507.54	1522.62	5717377.20
01.10.2020 to 30.09.2021	1055.68	527.84	1583.52	5946054.26
01.10.2021 to 30.09.2022	1097.91	548.96	1646.88	6183968.52
01.10.2022 to 31.05.2023	1141.83	570.92	1712.76	6431345.29
01.06.2023 to 30.09.2023	444.80	222.40	667.20	2505309.31
01.10.2023 to 30.09.2024	453.70	226.85	680.55	2555438.03
01.10.2024 to 30.09.2025	462.77	231.39	694.17	2608580.58
01.10.2025 to 30.09.2026	472.03	236.02	708.06	2658736.98

DAMAGES FROM 01.06.2016 TO 31.07.2026 AT THREE TIMES OF SOR RATE

SR NO.	PARTICULARS	AMOUNT (in Rs.)
1	Damages from 01.06.2016 to 30.07.2026	496592741.03
2	GST on Damages from 01.06.2016 to 31.07.2026	89377848.57
3	Interest on Damages from 01.06.2016 to 31.07.2026 as on 31.07.2026	383870297.47
4	Interest on GST on Damages from 01.06.2016 to 31.07.2026 as on 31.07.2026	81605985.82
5	Interest billed but not paid from 01.06.2016 to 31.07.2026 as on 31.07.2026	54099.17
6	Interest billed but not paid on Service Tax/GST from 01.06.2016 to 31.07.2026 as on 31.07.2026	12973.92
	Total Damages payable from 01.06.2016 to 31.07.2026 with interest as on 31.07.2026	1051513948.18

In Rs. 105.15

