

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 (07) of 2023

1. 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, Ballard Estate,
Mumbai – 400 001.

2. The Chairperson,

Mumbai Port Authority

.....Petitioners

V.

Shri. Ulhas A. Ambekar

Ex-Asst. Account Officer,
Finance Department,
Unit No. G/65 & G/66,
Palm Acres 'G' Building, Class III B type Quarters.,
Mulund (East), Mumbai-400081

.....Respondent

Coram: Shri S.C. Sonavane

(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-

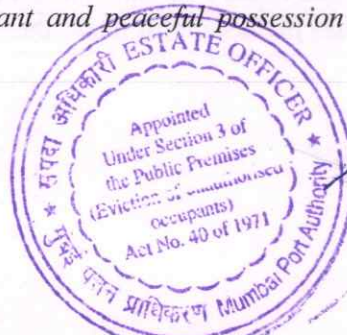
Petitioner's Advocate: Adv. Prajit Vora i/b Navdeep Vora & Associates

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

Respondent: Shri. Ulhas A. Ambekar

ORDER

1. The Petitioner No.1 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in title to the Board of Trustees of the Port of Mumbai, constituted under the Major Port Trust Act, 1963 since repealed, having its office at the above-mentioned address, Petitioner No.2 is the Chairperson of the Petitioner No.1 and is also authorized to exercise and perform powers and function of the Bombay Dock Labour Board as superseded by the Central Government.
2. By way of present order, I am going to decide the eviction Petition filed by the Petitioners under Section 3B 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 25.07.2023 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.*

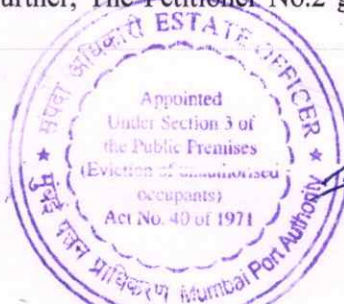


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- b) *Payment of damages/compensation from 01.09.2021 till vacation of residence as per Regulations already in force.*
- c) *Costs of the Proceedings.*
- d) *Any other relief or reliefs the Honorable Estate Officer may deem fit and proper in Description of the case.*

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 official residence has thus been illegally occupied by the Respondent. The Petitioners has cancelled the allotment of the Unit No.s G/65 & G/66, Palm Acres' G Building, Class III –B type Quarters., Mulund (East), Mumbai (hereinafter referred to as '**said premises**') which was allotted by the Petitioners' predecessor in title, the Trustees of the Port of Mumbai to the Respondent and Petitioners are also claiming *inter alia* an amount of Rs. 1,592,702.00 ps towards total rent/damages/compensation.

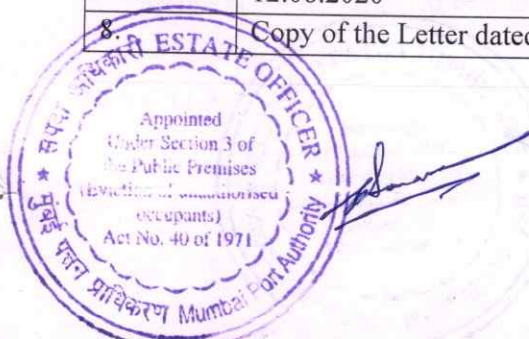
4. On 09.11.2023 Respondent filed the reply to the Show cause Notice which is treated as Written Statement wherein it was contended that 26 flats were vacant and there is no waiting list and he ought retention of quarters on humanitarian grounds till 31.03.2024. It was also contended that false charges were being framed against him and GAD welfare official had not followed MBPA rules and regulation and taken such drastic measures. As per the MBPA rules retired employees can be given quarters if flats are vacant and no waiting list was there. However, the same was not done by the Petitioners.
5. From the perusal of the pleadings and documents filed by the parties following facts came to forum:
As per the Petition filed by the Petitioners:
 - i. The unit no. G/65 was allotted by Petitioner's predecessor in title, The Board of Trustees of the Port of Mumbai to the Respondent. The Respondent Occupied said unit from 03.07.1990. Thereafter, on Respondent's request unit G/66 of Palm Acres G building was allotted by the then Chairman's order dated 09.06.2015 for residential purpose and the same is occupied by the Respondent on 06.07.2015. Respondent retired from the service of MBPA w.e.f. 01.08.2018. On his request, the Respondent was permitted to retain the above said premises up to 31.01.2020.
 - ii. Further, the Petitioner submits before this forum that after the completion of the permitted period of retention of quarters, the Respondent failed to vacate the said premises allotted to him.
 - iii. Accordingly, a Cancellation of Quarter's allotment Notice dated 12.08.2020 by Petitioners was issued to the Respondent which was received by him on 27.08.2020. Copy of the cancellation notice was also pasted on the said premises.
 - iv. Furthermore, Respondent vide letter dated 09.09.2020, made an appeal to the Petitioner No.2 requesting therein to allow him to retain the quarters for the period of one year up to 30.09.2021 .Vide this office Note dated 16.10.2020 the Petitioner No.2 had considered his appeal for retention of quarters for a further period up to 31.03.2021 as a special case. The same was informed to the Respondent vide petitioner letter dated 29.12.2020 accordingly.
 - v. The Respondent again requested for permission to retain the Quarters. Upto 31.05.2022 Vide petition dated 09.02.2021 addressed to Hon'ble Minister for Ports, Shipping and Waterways,
 - vi. Subsequently the case was again submitted to the Petitioner No.2 Vide office Note dated 26.03.2021. Further, The Petitioner No.2 granted him permission to retain the quarters for a further period of 3



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- months up to 30.06.2021 only as a special case due to Covid-19 pandemic. Accordingly, vide Petitioner's letter dated 27.04.2021, Respondent was intimated that he has been granted permission to retain the above quarters in his possession for a further period of 3 months from 01.04.2021 to 30.06.2021
- vii. Respondent was informed to make payment of Rs. 1, 64,052/- however, he failed to make the payment within stipulated period. Thereafter Respondent made payment Rs.1,64,052/- only after a reminder letter dated 03.11.2021 was issued to him, directing him to vacate and hand over vacant possession of the quarters in his possession immediately, failing which eviction proceedings will be initiated against him under PPE Act, 1971.
- viii. Vide Petitioner No.1 letter dated 13.01.2022, Respondent was informed that his request for retention of quarters for a further period upto 31.05.2022 cannot be acceded to and he was directed to vacate the quarters immediately. The said letter was received by him on 14.01.2022.
- ix. However, till date, Respondent has not vacated the Said premises. Thereafter the said premises has thus been unauthorisedly occupied by the Respondent as the Respondent does not have any right, title and/or interest whatsoever in said premises.
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 & 7 of the Act dated 02.08.2023 and same was served to Respondent by way of Personal Service on 03.08.2023 as per the Rules made under the Act. The issuance of show cause notice and affixation of the same was done as per the statutory mandate.
7. On the scheduled date of appearance and filing reply to the Show Cause i.e. on 10.08.2023, it has been observed that Respondent has appeared and submitted the application for retention of quarter till 31.03.2024 on 10.08.2023 & 01.09.2023 before the Ld. Authority and not to the Petitioners. The same could not be entertain by Estate officer as it was not empowered to entertain such application.
8. On 09.11.2023 Respondent filed the reply to the Show cause Notice dated 02.08.2023 which is treated as Written Statement.
9. On 30.11.2023 Petitioner filed the Draft issues and several dates were given to respondent to file the Draft issues but he failed to file the Draft issues subsequently the issues were finalized on 14.12.2023.
10. Affidavit of Evidence was filed by the Petitioners on 02.01.2024 and the following documents were duly marked and exhibited.

Item No.	Particulars	Exhibit No.
1.	Allotment Letter Dated 20.06.2015	A
2.	Copy of Salary Certificate.	B
3.	Original Letter of Retention dated 31.07.2018, 13.03.2019 and 19.10.2019	C
4.	Letter of cancellation of allotment of flats by Dy. Welfare Officer of Petitioners.	D
5.	Original Appeal of Respondent in the Welfare Division dated 09.09.2021	E
6.	Copies of the Letter between Respondent and Petitioners as and by way of Correspondence.	F
7.	Copy of Allotment Cancellation letter to the Respondent dated 12.08.2020	G
8.	Copy of the Letter dated 29.12.2020 issued to the Respondent	H



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9.	Copy of the Letter dated 27.04.2021 issued to the Respondent	I
10.	Statement of Arrears	J
11.	Trustee Resolution No.141 of 2017	K
12.	Statement of Damages	L
13.	Letter of Authority	M

11. Further the matter was proceeded for Cross of PW-1, Respondent was given chance for Cross-examination but Respondent failed to cross-examine the PW-1 on several dates and on 08.02.2024 cross of PW-1 was closed.
12. Further, matter was proceeded for Respondent's AOE and he again failed to file the AOE, subsequently the matter was proceeded for Final argument.
13. Final Argument by Petitioner was submitted on 23.02.2024.
14. In the present proceeding, it is observed that the Respondent was not present before this Authority. Furthermore, despite providing opportunities, the Respondent did not adduced any evidence in support of his claim. The Respondent was not present during cross-examination. Taking this into consideration, this Authority proceeded the matter as *ex-parte* against the Respondent.
15. Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of the parties. After due consideration of those submissions/arguments, I find the following issues for decision:
 - I. Whether Respondent is unauthorized occupants of the Petition premises and liable to be evicted from the Petition premises?
 - II. Whether Respondent is liable to pay damages/compensation as claimed by the Petitioners? If so, at what rate and what rate of interest?
 - III. The Cost of the Proceedings and by whom that is payable.

As regards Issue No. 1, Petitioners have produced the necessary documents in their Petition and Affidavit of Evidence on record to support their claim *viz* Cancellation of allotment of Quarters Notice dated 12.08.2020 (**duly taken on record as 'Exhibit-D and G'**) 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 cancellation 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 cancellation of retention of Quarters.

As regards Issue No. 2, Petitioner issued letter dated 18.07.2023 where the Respondent was informed that they are in gross arrears amounting to Rs. 15, 92,702.00 (Rs. Fifteen Lakhs Ninety two Thousands Seven Hundreds and Two Rupees) (**duly taken on record as Exhibit 'J'**). The Petitioners' allegation of non-payment of dues/charges by the Respondent queerly covers issue at hand. There is not a single document produced by the Respondent to contradict/dispute the claim of Petitioners. 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 no. 141 of 2017 of the Petitioners as applicable for all the unauthorised occupiers of the premises in a similarly placed situation. Therefore, I hold Issue Nos. 2 is proved.



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As regard Issue No. 3, considering various letter issued by the Petitioners to Respondent for vacating of the quarters and same was not followed by the Respondent with utter disregard to Petitioner's rules and regulation.

Due to continuance of retention of quarters unlawfully, Petitioners left with no other remedy but to initiate PPE Proceedings against the Respondent. The Petitioner No.1 has incurred cost towards filing PPE action unnecessarily and same needs to be borne by Respondent.

I hold Issue No.1, 2, 3 of the Petitioners are hereby proved based on the above finding:

16. After cancellation of retention of quarters, the right of the Respondent to occupy the said premise was withdrawn. However, the Respondent did not handover the possession of the Petition premises to the Petitioners, hence the Respondent is an 'unauthorized occupant' in terms of Section 2 (g) of the PPE Act. The same is reproduced here for the sake of reference-

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."

17. Upon perusal of the Petition, written arguments, and documents submitted on record, it is observed that the Petitioners validly and lawfully cancelled the Retention of Quarters by the Respondent. 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 orders for payment of arrears of rent/damages/compensation, taxes, and other charges under section 7(1) (2) (2A) of the PPE 1971 Act against the Respondent and I also hereby pass an order under section 3B, 5(1) of the PPE Act, 1971 for eviction from the said premises. Accordingly, orders in **Form 'B', and Form 'G'** are issued.
18. 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. 15,92,702.00 ps (Rs. Fifteen Lakhs Ninety two Thousand seven Hundreds and two Rupees) which is the total Damages payable upto 30.06.2023.

Place: Mumbai
Date: 06.03.2024




(S.C. Sonavane)
ESTATE OFFICER

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Form B

Order under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971

Case No. EO/QV (07) of 2023

1. The Board of Mumbai Port Authority

A Statutory Corporation, Successor in title
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2. The Chairperson,

Mumbai Port Authority

.....Petitioners

V.

Shri. Ulhas A. Ambekar

Ex-Asst. Account Officer,
Finance Department,
Unit No. G/65 & G/66,
Palm Acres 'G' Building, Class III B type Quarters.,
Mulund (East), Mumbai-400081

.....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 cancellation of retention of Residential Accommodation.

REASON

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

1. The allotment of Residential Accommodation to the Respondent was cancelled for the reason of Unauthorised Occupation and non-payment of dues vide cancellation of quarters notice dated 12.08.2020. Hence, the Respondent are unauthorized occupants in the said premises.

NOW, THEREFORE, in exercise of the powers conferred on me under section 3B read with 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.



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SCHEDULE

Description of the Premises

Unit Nos. G/65, G/66, Palm Acres, Class III B Type of quarters. Mulund (East), Mumbai-400081

Place: Mumbai
Date: 06.03.2024



(S.C.Sonavane)
ESTATE OFFICER

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Form G

Order under sub-sections (2) and (2-A) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971

Case No. EO/QV (07) of 2023

1. The Board of Mumbai Port Authority

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Of the Board of Trustees of the port of Mumbai
Having its registered office at Vijay Deep, Shoorji Vallabhdas Marg, Ballard Estate,
Mumbai – 400 001.

2. The Chairperson,

Mumbai Port Authority

.....Petitioners

V.

Shri. Ulhas A. Ambekar

Ex-Asst. Account Officer,
Finance Department,
Unit No. G/65 & G/66,
Palm Acres 'G' Building, Class III B type Quarters.,
Mulund (East), Mumbai-400081

.....Respondent

ORDER

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 02.08.2023 you were called up on to show cause on 07.08.2023, why an order requiring you to pay total damages for wrongful use and occupation of the premises from 01.07.2017 to 30.06.2023 with interest as on 30.06.2023 amounting to Rs. 15, 92,702.00 (Rs. Fifteen Lakhs Ninety two Thousand seven Hundreds and two Rupees) should not be made;

AND WHEREAS, you have not made any objections or produced any evidence before the said date;

NOW, THEREFORE, in the exercise of the powers conferred on me by sub-section 2 of Section (7) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order you to pay the sum of Rs.16, 67,642 (Rs. Sixteen Lakhs Sixty Seven Thousands Six Hundred and Forty two Rupees) up to 29.02.2024 and further sum till the vacation of the quarters assessed by me as rent/damages/compensation on account of your unauthorized occupation of the premises. In the event of your refusal or failure to pay the total sum including rent/damages and compensation arrears as Rs. 16,67,642 (Rs. Sixteen Lakhs Sixty Seven Thousands Six Hundred and Forty two Rupees) upto 29.02.2024 or any instalments thereof within the said period or in the manner aforesaid, the amount will be recovered as arrears of land revenue.



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SCHEDULE
Description of the Premises

Unit Nos. G/65, G/66, Palm Acres, Class III B Type of quarters. Mulund (East), Mumbai-400081

Place: Mumbai
Date: 06.03.2024




(S.C. Sonavane)
ESTATE OFFICER

मुंबई पत्तन प्राधिकरण
Mumbai Port Authority

CWO

Phone : 022-66565656
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Finance Department
Port Bhavan,
Shoorji Vallabhdas Marg,
Bairat Estate, Mumbai - 400 001
वित्त विभाग,
पोर्ट भवन,
शुद्धी पल्लभदास मार्ग,
बैराट ईस्टेट, मुंबई - ४०० ००१



अनुभाग / Section

No. FA/E/Rent/PSIII-IV/ (324)

4881
- 5 MAR 2024

4 MAR 2024

Dy. Manager(Welfare)
General Administration Department
Welfare Division

Sub :- Case under PPE Act,1971 of Shri Ulhas A. Ambekar, Ex-Astt.
Administrative Officer, Finance Department.

Ref : - Your letter No. GAD-WD/Q(Misc.)/2516 dtd. 29.02.2024

In continuation to this office letter No. FA/E/Rent/PS III-IV/600 dtd. 29.02.2024 working of rent recovery of Shri Ambekar in revised format is as under.

From Date	To Date	Rate	Nature of rent		Rent AMOUNT (A)	WATER CHARGES (B)
01.07.2017	31.07.2018	310		*310-245=65 (65+65 x 13 months)	1,690.00	NIL
01.08.2018	30.09.2018	310	Normal	620 X 2	1,240.00	50.00
01.10.2018	30.11.2018	620	Twice	1240 X 2	2,480.00	100.00
01.12.2018	31.01.2019	930	Thrice	1860 X 2	3,720.00	100.00
01.02.2019	29.02.2024	29824	**40 % Of Pay	29824 X 61	18,19,264.00	3,050.00
				Total	18,28,394.00	3,300.00

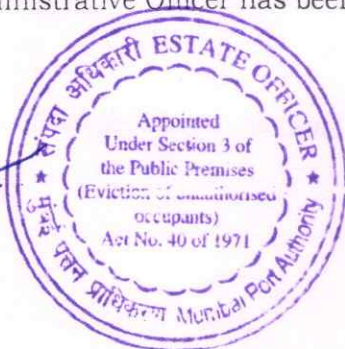
Total Rent Due (A+B) = Rs. 18,31,694.00

*Revised Rate w.e.f. 01.04.2017 circular No. FA/WRS/RFQ1/2020/2783 dtd.17.12.2020.

**As per TR No. 141 dtd. 10.11.2017

2. As mentioned in letter for cancellation of allotted quarters No. GAD-WD/Q/1533 dtd. 19.09.2022, Shri Ambekar has paid Rs. 1,64,052/- (R. No. 338/69 dtd. 08.11.2021 obtained from Welfare Division on 04.03.2024 is attached.) The same can be adjusted against the recovery after due verification from your end.

3. This is to inform you that an amount of Rs. 7,71,172/- towards Gratuity of Shri Ambekar, Ex-Astt. Administrative Officer has been retained with MbPA .



(Smt. S.S. Karnik)
Accounts Officer Gr. I(E)