



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8065 OF 2004

Udharam Ammumal Parwani since
deceased through legal heirs-

1. Pushpa w/o. Udharam A. Parwani
and Ors.

...Petitioners

V/s.

Union of India through the General
Manager, Central Railway, Mumbai and
Ors.

...Respondents

Mr. Hitesh P. Vyas with *Mr. Rasik Raut for the Petitioners.*

Mr. R.V. Govilkar, *Senior Advocate with Mr. T.J. Pandian, Mr. R.P. Ojha,
Mr. T.C. Subramanian, Mr. Gautam Modanwal, Ms. Vaishali Barot. Ms.
Noorjahan Khan and Ms. Aarti Gupta for the Respondents.*

CORAM: SANDEEP V. MARNE, J.

DATED: 30 SEPTEMBER 2026.

P.C.:

1) Petition challenges judgment and order dated 10 September 2004 passed by the learned Principal Judge, City Civil Court at Mumbai dismissing Misc. Appeal No.209 of 2001. In his Appeal filed before the City Civil Court, the Petitioner had challenged order dated 21 March 2001 passed by the Estate Officer, Central Railway in Case No.165 of 1998

directing eviction of the Petitioner under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971(**the PP Act**).

2) Considering the nature of order that is proposed to be passed in the present Petition, it is not necessary to narrate the entire chequered history of the case. Suffice it to observe that Central Railway is the owner of the land and structure located thereon admeasuring 375.48 sq.mtrs. adjoining Sion Railway Station at Mumbai. Central Railway used to operate its Booking Office in the premises. Since Booking Office was shifted, the Railway decided to allow the premises forming part of old Booking Office to Sion Central Railway Employees' Cooperative Society. Accordingly by letter dated 23 February 1985, Central Railway allocated the premises to the Society for operation of a consumer store. The Society in turn inducted the Petitioner for conducting consumer store on payment of rent of Rs.6,000/- per month. This is how the Petitioner has been occupying the premises since the year 1985. There have been several rounds of orders passed by the Estate Officer under the provisions of the PP Act as well as orders passed by the City Civil Court and by this Court and it is not necessary to refer to details of those orders. Suffice it to observe that after several rounds of remands, an order dated 21 March 2001 was passed by the Estate Officer directing eviction of the Petitioner from the premises. The Petitioner filed Misc. Appeal No.209 of 2001 before the City Civil Court, which has been rejected by order dated 10 September 2004, which is the subject matter of challenge in the present Petition.

3) On 20 December 2005 the Petition has been admitted and interim stay is granted to the eviction order subject to the condition of the Petitioner depositing sum of Rs.30,00,000/- in three equal monthly installments of Rs.10,00,000/- each and Petitioner depositing monthly compensation of Rs.30,000/- from 10 January 2006 during pendency of the Petition.

4) It appears that since the Railway administration needs the land on which the premises are situated for construction of 5th and 6th Railway line project comprising *inter-alia* of Sion ROB/road over flyover bridge, a fresh show cause notice was issued by the Estate Officer under the provisions of the PP Act on 23 June 2023. The Petitioner moved this Court and order dated 9 June 2025 is passed taking note of draft consent terms tendered by the Petitioner. Under the draft consent terms, the Petitioner agreed to return the premises by permitting the Railway Administration to withdraw the entire monthly deposit of Rs.30,000/- made during pendency of the Petition alongwith interest accrued thereon. However, the Petitioner wanted to withdraw the amount of Rs.30,00,000/- deposited in this Court alongwith the interest accrued thereon. It appears that the Railway Administration has not consented to the arrangement suggested by the Petitioner. Accordingly, the Petition is taken up for hearing.

5) I have heard Mr. Vyas, the learned counsel appearing for the Petitioners and Mr. Govilkar, the learned Senior Advocate appearing for the Respondents.

6) It must be observed at the very outset that the Petitioner came into the premises not as a direct allottee of Railway Administration but a mere conductor engaged by the Sion Railway Employees' Cooperative Society. Thus, there is no direct relationship between the Petitioner and the Central Railway. In that sense, very authority of the Petitioner to occupy the premises becomes questionable. It also appears that the Petitioner has effected change of user in respect of the premises. Though he was inducted to conduct a consumer store in the premises, what is being operated by the Petitioner is now a furniture shop. Be that as it may. Railway Administration is in urgent need of premises for the purpose of 5th and 6th Railway line as well as for construction of ROB. The photograph indicates that the work of ROB is left incomplete on account of occupation of the premises by the Petitioner. The Petitioner cannot continue to occupy the premises for eternity. Present Petition is pending for 22 long years and pendency of the Petition has enabled the Petitioner to occupy the premises. The Petitioner has deposited monthly compensation of Rs.30,000/- per month for occupation of the premises during pendency of the Petition. Towards past arrears of rent the Petitioner has also deposited an amount of Rs.30,00,000/- in pursuance of order dated 20 December 2005. The Petitioner has now shown willingness to handover possession of premises to Railways. However, Mr. Vyas has suggested that Petitioner be permitted to withdraw the amount of Rs.30,00,000/- deposited by him in pursuance of order dated 20 December 2005 alongwith interest accrued thereon. In my view, this expectation on the part of the Petitioner is totally baseless. Amount of Rs.30,00,000/- is deposited by the Petitioner towards arrears of rent. In

that view of the matter, Railway Administration is alone entitled to withdraw the same amount with the accrued interest.

7) Now that the Petitioner has shown willingness to vacate the premises and handover possession thereof to the railway administration, in my view a quietus needs to be given to the entire dispute. Railway Administration can be permitted to withdraw the entire deposited amount in this Court alongwith accrued interest, which shall satisfy all demands of Railway Administration towards rent/ penal charges in respect of the occupation of the premises till the date of vacation of the premises. The Petitioners can accordingly be directed to vacate the possession of the premises within a period of six weeks.

8) I accordingly proceed to pass the following order:-

- (i) Judgment and order dated 10 September 2004 passed by the City Civil Court in the Misc. Appeal No.209 of 2001 is modified by directing the Petitioners to handover possession of the premises to Railway Administration within a period of six weeks.
- (ii) The Petitioners shall deposit amount of rent for the month of October-2026 in this Court.
- (iii) Railway Administration shall be entitled to withdraw the entire deposited amount alongwith accrued interest towards its claim of rent in respect of the suit premises.

9) With the above directions, Writ Petition is partly allowed and **disposed of**. Rule is made partly absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]