

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1789 OF 2016

Rajkumari Renuka Devi Dhanrajgir
(alias Mrs.Ranuka Batlivala)

...Petitioner

Versus

Board of Trustees of the Port of
Mumbai & Ors.

..Respondents

Mr.N.H. Seervai, Senior Advocate with Mr.Sarosh Bharucha and Ms.Lara Jesani I/b. P.M. Rustomkhan for Petitioner.

Mr.E.P. Bharucha, Senior Advocate with Mr.Robin Fernandes and Ms.Sneha Pandey I/b. Motiwalla & Co. for Respondents No.1 and 2.

**CORAM: M. S. SANKLECHA &
S.C. GUPTE, JJ.**

DATE : 29 SEPTEMBER 2016

P.C. :

This petition under Article 226 of the Constitution of India challenges three notices dated 12 April 2016 issued under the Public Premises (Eviction of Un-authorised Occupants), Act, 1971.

2 The Petitioner's grievance is that the impugned notices dated 12 April 2016 are *ex facie* without jurisdiction and void. Therefore, the same ought to be set aside and the Petitioner should not be put to the unnecessary ordeal of responding to the notice. In support of his submission, the Petitioner placed reliance upon decisions of the Supreme Court in **Suhas H. Pophale vs. Oriental Insurance Company Limited and its Estate Officer**¹ and **Express Newspapers Pvt.Ltd. and others vs. Union of India and Ors.**²

¹ (2014) 4 SCC page 657

² (1986) 1 SCC 133

3 We are of the view that the show cause notices, which have been issued, give an opportunity to the Petitioner to show cause. At that stage, it is open to the Petitioner to show cause *inter alia* pointing out that Respondent No.2, who has issued the impugned show cause notices, does not have jurisdiction to proceed against the Petitioner under the Act. There is no reason to proceed on the basis that merely because Respondent No.2 has issued the impugned notices, he would not give a fair hearing and /or decide impartially.

4. In these circumstances, it would be appropriate that the Petitioner responds to the show cause notices on the issue of jurisdiction of Respondent No.2 to issue the impugned notices under the Act. Respondent No.2 should first decide the issue of his jurisdiction to issue the impugned notices under the Act and pass an order on the same. Further, Respondent Nos.1 and 2 will not act upon the order passed on the jurisdictional issue, if adverse to the Petitioner, for a period of two weeks from the date of communication of the order to the Petitioner.

5. In view of the above directions, Mr.Seervai, learned Senior Counsel seeks to withdraw the petition.

6. The petition is disposed of as withdrawn.

(S.C. GUPTE, J.)

(M. S. SANKLECHA, J.)