

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO. 295 OF 2012**

The Western India Oil Distribution Co. Ltd. ..Appellant.
Vs.
The Union of India & anr. ..Respondents.

Shri P.S. Dani, Senior Advocate i/b. Shri A.P. Kulkarni, for the Appellant.

Shri T.J. Pandian, for the Respondents.

**CORAM : R. M. SAVANT &
SMT.SADHANA S. JADHAV, JJ
DATE : 5th JULY, 2017**

P.C.

1 The above Letters Patent Appeal has been filed taking exception to
the Order dated 29/8/2012 passed by a learned Single Judge of this Court, by
which order the above Writ Petition came to be disposed of.

2 The Petitioner is in occupation of a premises belonging to the Railways, more especially the Central Railway. The Respondent No. 1 has initiated proceedings under the Public Premises Eviction Act, 1971 (the PPE Act for short) against the Appellant/Original Petitioner on the ground that the Appellant is in unauthorised occupation of the said premises. After the notice under section 4 was issued to the Appellant and the reply of the Appellant was

received, the proceedings under the PPE Act have commenced before the Estate Officer. Before the Estate Officer, the Appellant has raised a preliminary issue as regards the jurisdiction of the Estate Officer to initiate proceedings under the said PPE Act. The preliminary issue has been raised on the ground that the Appellant is a lessee of the premises in question.

2 Suffice it to state that the said preliminary objection which was one amongst the other objections raised by the Appellant was rejected by the Estate Officer by his order dated 18/1/2011. The said order was taken exception to by the Appellant by way of the above Writ Petition. The said Writ Petition as indicated above was disposed of by the learned Single Judge of this Court by the Order dated 29/8/2012. While disposing of the said Writ Petition, the learned Single Judge clarified that in the event the final order is adverse to the Petitioner i.e. the Appellant herein, then while challenging the same before the the Appellate Authority, appropriate pleas including the lack of jurisdiction of the Estate Officer can be raised and neither the tentative observations of the Estate Officer nor disposal of the Writ Petition would be an impediment for the Appellant to urge the said contentions.

3 Having perused the said order dated 18/1/2011 passed by the

Estate Officer, as also having considered the order passed by the learned Single Judge of this Court, we are not satisfied with the manner in which the said issue of jurisdiction has been adjudicated by the Estate Officer. We are therefore, of the view that the interest of justice would be served that notwithstanding the rejection of the said objection raised on the ground of jurisdiction by the Estate Officer, it would be just and proper to keep the said issue open for being agitated before the Estate Officer, which issue can undoubtedly be tried by the Estate Officer with the other issues that are framed in the proceedings. Hence, the impugned order passed by the learned Single Judge is interfered with to the aforesaid extent. Needless to state that the contentions of the parties are kept open in so far as this issue is concerned.

4 With the directions as above, the Letters Patent is disposed of. Ad-interim order which is in operation stands vacated.

[SMT.SADHANA S. JADHAV,J]

[R.M.SAVANT, J]