

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

WRIT PETITION NO.13374 OF 2016

Sachin Vishwanath Shelke	...Petitioner
vs.	
Indian Railway Through Divisional Manager Pune Mandal & Ors.	...Respondent

Mr. Prashant M. Patil for the Petitioner.
Mr. P. G. Sawant, AGP for the Respondent Nos.3 to 5.

**CORAM : A.S.OKA AND
ANUJA PRABHUDESSAI, JJ.
DATE : 10/01/2017.**

P.C.:

. The challenge in this Petition under Article 226 of the Constitution of India is to the notice dated 5th November 2016 issued by the second Respondent, who is an officer of the Central Railway.

2. We have carefully perused the said notice as well as earlier notice issued by the second Respondent dated 12th April 2013, It is true that by the said notice, the Petitioner has been called upon to handover possession of the property in his possession. However, in the last paragraph of the notice it is stated that if the Petitioner fails to vacate, an action will be initiated against him under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and on the basis of the Indian Railways Act, 1989.

3. On plain reading of the notice dated 5th November 2016, we find that the third Respondent has stated that on then failure of the Petitioner to vacate, recourse will be taken to the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

4. There is no averment in the Petition which specifically states that after service of notice, any attempt was made to dispossess the Petitioner without taking recourse to due process of law under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. Hence, subject to what is observed above it is not necessary to entertain this Writ Petition under Article 226 of the Constitution of India. In the proceeding, if any, initiated against the Petitioner, he can urge all the contentions raised in this Petition.

5. Subject to what is observed above, the Petition is disposed of.

(ANUJA PRABHUDESSAI,J)

(A.S.OKA,J.)