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WRIT PETITION NO. 5524 OF 2019

WITH

WITH

WITH

WITH

WRIT PETITION NO. 5528 OF 2019

Salim Faiyaz Khan

...Petitioner

Versus

Union Of India Through
The Govt. Pleader And Ors.

...Respondents

Mr. R.A. Thorat, Senior Advocate I/b Mr. Dhananjay R. Prasad Singh
for the Petitioners in all the above Writ Petitions.

Mr. Chetan Agrawal a/w Mr. Ujjwal Agrawal, Mr. Pravin Mengone,
Mr. Pranav Dhakne, Ms. Jyoti S. Agrawal, Advocates for Respondent
Nos. 2 and 3.

CORAM: NITIN W. SAMBRE, J.

DATE: 26th July, 2019

P.C.:-

1] All these Petitions can be conveniently disposed of by consent of parties by this common order, as the issue involved therein is similar.

2] After the notice of eviction issued under sub-section (2) of Section 5A of the Public Premises Eviction of Unauthorized Occupants Act, 1971, (For short “the Act”), Estate Officer of the Respondents-Railway Authorities has ordered eviction, which is questioned in the

present Petitions. The submissions are, initially, there was a dispute raised by an individual in regard to the ownership of the Respondents or State Government over the property in question. Apart from above, it is claimed that an appeal against the finding recorded on the aforesaid issue is pending. In the aforesaid background, proceedings for eviction against the Petitioners are not maintainable for want of title in favour of the Respondents-Authorities. In the absence of title, submissions are, the provisions of the Act ought not to have been invoked against the Petitioners.

3] The contentions of the Petitioners are resisted by the learned Counsel for the Respondents on certain factual issues.

4] It is not in dispute that the issue as regards the land in question belongs to Railways, is already adjudicated at the behest of third party in favour of the Respondents, against which, I am informed, appeal is pending in which no injunction is operating.

5] In the wake of above, I hardly notice any case for interference. Petitions fail and the same stand dismissed. However, this will not preclude the Petitioners from taking any other legal proceedings in regard to the land in question, which may be decided in accordance with law.

(NITIN W. SAMBRE, J.)