

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.7501/2022

1. Abdul Mujeeb Abdul Jabbar,
aged 53 years, Occ. Agriculturist.
2. Ruksana Begum wd/o Abdul Ajij,
aged 60 years, Occ. Agriculturist,
Both r/o Punjani Complex,
Main Road, Karanja, Dist. Washim.**PETITIONERS**

...V E R S U S...

1. Union of India, through
Secretary, Ministry of Defence,
New Delhi.
2. Defence Estate Officer,
Andhrapradesh, Circle Secunderabad,
Telangan & Andhrapradesh Circle,
Secunderabad.
2. District Collector, Washim,
through Tahsildar, Karanja Lad,
Dist. Washim.**RESPONDENTS**

Mr. R. K. Thakkar, Advocate for petitioners.
Mr. N. S. Deshpande, Dy.S.G.I. for respondent nos. 1 and 2.
Mrs. S. S. Jachak, A.G.P. for respondent no.3.

CORAM:- A. S. CHANDURKAR & ANIL L. PANSARE, JJ.

DATED :- 12.12.2022

ORAL JUDGMENT (Per: Anil L. Pansare, J.)

Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. The petitioners are seeking to quash and set aside the
notice dated 16.09.2022 issued by the respondent no.2-Estate

Officer. By the impugned notice issued under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (For short the “Act of 1971”), the Estate Officer has expressed an opinion that the petitioners are in unauthorised occupation of public premises in issue and that they should be evicted from the said premises. The notice has been issued by the Estate Officer of Circle Secunderabad. The premises in issue are admittedly part of land admeasuring 10 Acres in Revenue Survey No. 176/Part, Mouja Kali, Karanja, District Washim, Maharashtra State.

3. The grievance of the petitioner is that the notice has been issued by respondent no.2 - Estate Officer, Secunderabad Circle and have called upon the petitioners at Secunderabad despite the fact that the land in issue is located within the local limits of Tahsil Karanja, District Washim, Maharashtra State and that, therefore, the proceedings cannot be held at Secunderabad.

4. The learned counsel for the petitioners submits that the controversy is covered by the judgment of the Hon’ble Supreme Court in the case of Savatram Rampratap Mills Vs. Radheshyam s/o Laxminarayan Goenka (D) Thr. LRs. And anr.¹ The Apex Court, while dealing with the similar issue has observed thus:

13. The short question, which arose for consideration before the High Court, was that when the public

premises in question is situated at Akola, whether the proceedings in relation to such public premises can be initiated under the Act at Mumbai or it has to be initiated at Akola, that being the place falling in the local limits specified in the notification issued under Section 3 of the Act for exercise of jurisdiction by the Estate Officer.

14. *Section 3(b) of the Act, which is relevant for this case, reads asunder:*

“3. Appointment of estate officers. The Central Government may, by notification in the Official Gazette

(a).....

(b) define the local limits within which, or the categories of public premises in respect of which, the estate officers shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.”

15. *Construing the expression "local limits within which" occurring in Section 3(b) of the Act, the High Court held and, in our opinion, rightly that the Estate Officer has to exercise its jurisdiction in relation to the public premises falling in the local limits specified in the notification.”*

16. *Since in this case, the notification (Annexure P-1), in clear terms, specified that the Mill is situated at Akola [see Item 5(15)], a fortiori, the proceedings in relation to such public premises under the Act could only be initiated at Akola that being the area falling in the local limits specified in the*

notification for exercise of powers by the Estate Officer. The High Court was, therefore, right in interpreting Section 3(b) of the Act and, in consequence, was legally justified in quashing the notices impugned in the writ petition as being without jurisdiction.

17. *Before parting, we consider it apposite to state that the appellant would be free to issue fresh notices to respondent No.1 under the Act and initiate the proceedings for their eviction from the public premises at Akola.*

18. *If the respondents are dispossessed on the strength of any order passed by the Estate Officer, the possession will remain with the appellant but it will be subject to final adjudication of the proceedings once initiated by the appellant.*

19. *Let fresh notices be issued by the appellant within one month from the date of this order to respondent No.1 or/and to any person(s), who claim(s) to be in possession in relation to specified public premises under the Act.*

20. *The proceedings be held at Akola that being the proper place for deciding the proceedings under the Act, as specified in the notification issued under Section 3 referred supra.”*

5. The Hon’ble Supreme Court, after considering the provisions of the Act of 1971, has clearly held that the proceedings in relation to such a public premise under the Act can only be initiated at the place where the public premise is located. It is

clearly held that the estate officer has to exercise its jurisdiction in relation to the public premise falling in local limits specified in the notification.

6. The notice, in the present case, indicates that the premise in question is situated at Mouja Kali, Karanja, District Washim, Maharashtra State. Therefore, for the proceeding in relation to such a public premise, the proceeding under the Act of 1971, has to be initiated at Washim only.

7. Learned Deputy Solicitor General of India, though made an attempt to justify the order, could not justify the same. we are of the considered view that the question involved in the petition is squarely covered by the judgment of the Hon'ble Supreme Court. We, on the strength of the judgment of the Apex Court, proceed to pass the following order.

8. The writ petition is allowed.

The notice dated 16.09.2022 issued by respondent no.2-Estate Officer is quashed and set aside. The respondent no.2 is at liberty to issue fresh notices to the petitioners under the Act of 1971 and initiate the proceedings for their eviction from the public premise at Washim.

The proceedings be held at Washim, the place where the premise in issue is situated as specified in the impugned notice.

Rule is made absolute in the above terms. No order as to costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)

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