



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1084 OF 2024

Shree Samarth Shripati Baba Shikshan Sanstha, ... Petitioner  
through Secretary R.V. Bhalerao

*Versus*

Estate officer, Central Railway, Pune & Ors. ... Respondents

Mr. Sumant R. Deshpande for the petitioner.

Mr. T.J. Pandian a/w. Mr. T.C. Subramanian and Ms. Tanisha Raikwar  
for respondent nos. 1 and 2.

Ms. Shruti D. Vyas, Addl. G.P. a/w. Ms. P.J. Gavhane, AGP for  
respondent no.3/State.

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CORAM: G. S. KULKARNI &  
KISHORE C. SANT, JJ.  
DATED: 24 January, 2024

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P.C.

1. This petition under Article 226 of the Constitution of India is filed assailing an order dated 5 December, 2023 passed by respondent no. 1- Estate Officer, Central Railway, Pune whereby the petitioner has been directed to vacate the land in question, on which the petitioner was conducting school. As the petitioner apprehended a coercive action under the impugned order, the present proceeding was moved before this Court.

2. Mr. Pandian, learned counsel for the respondents-Railways would submit that the petitioner has a alternate remedy available to approach the Court of learned District Judge, Pune by filing an appeal under section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. It is submitted that the appeal ought to have been filed within a period of 12 days

from the receipt of the order, however, the petitioner has chosen to file the present proceedings.

3. In the facts and circumstances of the case, we are of the opinion that it would be appropriate for the petitioner to pursue the appellate remedy as available to it. We, accordingly, dispose of this petition with liberty to the petitioner to file an appeal, which be filed within one week from today and if the same is filed within such period, the appellate forum shall consider the petitioner's appeal on merits and without an objection as to limitation, for the reason that the petitioner was pursuing this petition bonafide.

4. As there is a likelihood of coercive action to be taken against the petitioner under the impugned order, for a period of two weeks and only to enable the petitioner to move the appellate forum, we direct the respondents not to take any coercive action. However, such protection is in no manner an expression on the rival contentions of the parties or on the merits of the proceedings. The rival contentions would fall for appropriate consideration of the appellate forum. The petitioner is at liberty to move an interim application for stay of the impugned order before the appropriate authority, which be considered in accordance with law and on its own merits.

5. Disposed of in the above terms. No costs.

**(KISHORE C. SANT, J.)**

**(G. S. KULKARNI , J.)**