



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5979 OF 2023**

1. Hiraben Keshavji Satra

Age 74 years, Indian inhabitant

2. Dhiraj Keshavji Satra

Age 50 years, Indian inhabitant

3. Prakash Keshavji Satra

Age: 46 yrs. Of Indian Inhabitant

4. Central Stores

through the heirs and representatives
of late Keshavji Jivan Satra,
Shop No. 3, Dena Bank Building,
3rd Pasta Lane, Colaba Causeway,
Mumbai 400 005

.....Petitioners

Vs.

1. Estate Officer, Bank of Baroda

(Erstwhile Dena Bank)

Claiming to be appointed under the
Public Premises Eviction of
Unauthorized Occupants Act, 1971,
having its office at 17, Horniman Circle,
Fort, Mumbai – 400 023.

2. Bank of Baroda

(Erstwhile Dena Bank)

A body corporate constituted and
established under the provision of the
Banking Companies (Acquisition and
Transfer of Undertaking) Act 1970,
and having its head office at Mumbai
and its General Administrative

Department at Dena Corporate
Centre, 2nd floor, C-10, G-Block,
Bandra Kurla Complex,
Bandra (East), Mumbai – 400 051

3. Kanji Narayanji Somaya

Shop No. 3, Dena Bank Building,
3rd Pasta Lane, Colaba Causeway,
Mumbai 400 005

.....Respondents

Mr. Surel Shah a/w Mr. Bhavin H. Gada and Mr. Dhaval M. Visawadia
i/b Harakchand and Co. for the petitioners
Mrs. Rathina Maravarman for respondent no. 2

CORAM : GAURI GODSE, J.

DATE : 4th MARCH 2024

ORAL JUDGMENT:

1. Rule.

2. Mrs Rathina Maravarman waives service for respondent no. 2.

Rule made returnable forthwith. Taken up for final disposal.

3. Heard. This petition takes an exception to the order passed by the Estate Officer, rejecting the petitioners' application objecting to the jurisdiction of the Estate Officer to try and entertain the proceedings initiated by respondent no. 2 against the petitioners under The Public

Premises (Eviction of Unauthorised Occupants) Act, 1971 ('the said Act').

4. Respondent no. 2 initiated the proceedings under the said Act in June 2012. On 4th August 2022, the petitioners filed an application objecting to the jurisdiction of the Estate Officer on the ground that there is no notification issued appointing the Estate Officer in terms of Section 3 of the said Act. An application objecting to jurisdiction was filed by the petitioners on the ground that the letter of appointment produced by respondent no. 2 only indicates that competent authority of respondent no. 2 has appointed the present officer as an Estate Officer. It is contended in the application that respondent no. 2 has relied upon gazette notification, whereby, the designation of the Estate Officer is indicated, however, there is no specific appointment of the present Estate Officer. Hence, it is contended that the present Estate Officer cannot be termed as an officer appointed in terms of Section 3 of the said Act.

5. Learned counsel for the petitioners submitted that there is no dispute on the gazette notification dated 18th August 1993, whereby

“The Chief Manager, Premises and Equipments, Bank of Baroda, Central Office, Ballard Pier, Bombay” is the designated officer appointed under Section 3 of the said Act. He further submits that it is also not disputed that the legal jurisdiction of the said designated officer is regarding the premises situated in Bombay and New Bombay. Learned counsel pointed out that respondent no. 2 had produced on record a letter of appointment dated 15th January 2021 indicating that the present Estate Officer was deployed as Chief Manager, Premises and Equipment by respondent no. 2 and it decided to appoint him as Estate Officer under the said Act with effect from 14th January 2021. He submitted that the said letter of appointment indicates that it is issued by respondent no. 2 with an address of Baroda Corporate Centre. He thus, submitted that respondent no. 2 is not empowered to appoint an Estate Officer and only the Central Government can appoint an Estate Officer in terms of Section 3 of the said Act.

6. Learned counsel further pointed out that respondent no. 2, for the first time, in this court has produced a letter dated 8th January 2021 stating that the present officer was appointed as Chief Manager,

Premises and Equipment, BCC, Mumbai for the estate management department. Thus, by relying upon the specific designation as notified in the gazette notification dated 18th August 1993, he submitted that the only officer empowered to try and entertain the proceedings is as stated in serial no. 1 of the said notification which reads as under:

“Designation of the Officer	Categories of public premises and local limits of jurisdiction
1. The Chief Manager, Premises and Equipments, Bank of Baroda, Central Office, Ballard Pier, Bombay.	Premises belonging to, or taken on leaseby, or on behalf of Bank Of Baroda and situated in Bombay.”

7. Learned counsel for the petitioners also relied upon various grounds raised in the application filed before the Estate Officer as well as the ground raised in the present petition. He relied upon ground raised in clause (X) in the memo of petition and submitted that the appointment letter dated 15th January 2021 relied upon by respondent no. 2 appointing respondent no. 1 as an Estate Officer under the said Act is produced before this Court for the first time. He thus, submitted that the present Estate Officer, not being the officer appointed in terms of Section 3 of the said Act, does not have any jurisdiction to try and

entertain the proceedings.

8. Learned counsel for respondent nos. 1 and 2 submitted that the gazette notification dated 18th August 1993 notifies the designation of an officer empowered to try and entertain the proceedings under the said Act. She submitted that there is no requirement to independently appoint an officer by way of a gazette notification under Section 3 of the said Act. She submitted that the present Estate Officer is an officer holding the rank as notified in the said notification. She submitted that though the letter dated 8th January 2021 is produced before this court for the first time, the order dated 15th January 2021 indicating that the present Estate Officer is an officer who is appointed as an Estate Officer under the said Act, was already produced before Estate Officer before whom the application objecting to the jurisdiction was filed by the petitioners. She submitted that since the beginning, proceedings have been conducted by the officer of the rank as notified in the said notification. She submitted that even the present Estate Officer holds the rank as notified in the said notification. She by referring to the application made by the petitioners submitted that such an objection

was never raised when the earlier officer of the same rank had conducted the proceedings. By referring to the grounds of objections raised in the application, she submitted that the petitioners have sought to argue that there has to be a separate notification appointing a particular officer as an Estate Officer. She submitted that in the amended grounds of challenge, the petitioners have raised a ground that a specific appointment of the present officer is not seen in the gazette notification relied upon by respondent no. 2. She submitted that there is no substance in the said arguments made on behalf of the petitioners. She submitted that as per the requirement under Section 3 of the said Act, the rank of the officer who can conduct inquiry under the said Act is notified and that notification in the name of an officer is not the requirement under Section 3 of the said Act.

9. In support of her submissions, she relied upon the decision of this Court in the case of **Crawford Bayley and Co. and Ors Vs. The Union of India (Uoi) and Ors**¹. She submitted that said decision was pertaining to a challenge to the notification issued under Section 3 of

¹ 2003 (6) BomCR 112

the said Act. She submitted that this Court has in detail discussed the requirement of an appointment of the Estate Officer under Section 3 and held that the requirement is to notify the designation of the officer and there is no requirement to notify the name of a person who is empowered to hold the inquiry under the said Act. She submitted that the decision of this court has been upheld by the Hon'ble Supreme Court.

10. I have considered the submissions made by the parties. Perused the record. Application filed by the petitioners objecting to the jurisdiction categorically raises an objection that respondent no. 2 has not produced an order of Central Government appointing the present officer as contemplated and provided under Section 3 of the said Act. The application further raises an objection that the gazette notification relied upon by respondent no. 2 only indicates the designation of the officer but the specific appointment of the present officer is not seen in the gazette notification.

11. However, despite the said objections that were raised before the Estate Officer, learned counsel for the petitioners at the time of

arguments submitted that even if it is accepted that a specific order in the name of the present officer is not the requirement under Section 3 of the said Act, he submitted that the letter of appointment relied upon by respondent no. 2 indicates that respondent no. 2 has appointed the present officer under the said Act to handle the cases under the said Act. He thus submitted that the competent authority of respondent no. 2 has no jurisdiction to appoint the Estate Officer under the said Act and only the Central Government is empowered to appoint the Estate Officer under Section 3 of the said Act.

12. Thus, learned counsel for the petitioners does not dispute that by notification dated 18th August 1993, the designation of an officer empowered to decide the cases under the said Act has been notified. The letter relied upon by respondent no. 2 in support of the submissions that the present officer is an officer appointed as an Estate Officer indicates that the present Estate Officer has been informed by the said letter that according to his appointment as Chief Manager, Premises and Equipments, the competent authority of respondent no. 2 has decided to appoint him as an Estate Officer

under the said Act. A perusal of the said letter dated 15th January 2021 thus indicates that the present Estate Officer has been deployed as Chief Manager, the Premises and Equipments, and as he has been deployed as Chief Manager, the Premises and Equipments, he has been informed by the said letter that he is appointed as an Estate Officer under the said Act. Thus, the said letter is only for intimating the said officer that since he is deployed as Chief Manager, the Premises and Equipments, he is further informed that he is appointed as Estate Officer under the said Act. Thus, considering the contents of the said letter, it cannot be interpreted to mean that the said officer does not hold the rank of the designated officer as notified under the said notification. Contents of the said letter dated 15th January 2021 indicate that he is holding the rank of the Chief Manager, Premises and Equipments. Thus, intimating the said officer about his appointment as Estate Officer under the said Act is only an intimation in terms of the notification. Thus, in my view, the said letter is only an intimation to the concerned officer that he is required to work as an Estate Officer, as the Chief Manager, Premises and Equipments is the

designated officer who is empowered to hold the enquiry under the said Act in terms of the notification dated 18th August 1993.

13. Interpreting the letter as sought to be interpreted by learned counsel for the petitioners would amount to a far-stretched interpretation of the said letter of intimation. It is not even the case of the petitioners in their application that the said Estate Officer does not hold the rank as notified in the said notification. A perusal of the application objecting to jurisdiction indicates that the objection raised on behalf of the petitioners is that there is no separate gazette notification appointing the present Estate Officer.

14. Considering the aforesaid facts, the principles of law laid down in the decision of this Court relied upon by the learned counsel for respondent no. 2 squarely applies to the present case. This Court in the said decision of ***Crawford Bayley and Co. and Ors*** in paragraph 14 has held that

“.....It is further to be seen here that in terms of the provisions of Section 3 of the Public Premises Act, the Central Government is obliged to appoint

only an Officer of the respondent No. 3 as Estate Officer in respect of the premises of the respondent No. 3. Therefore, the only thing that was to be decided by the Central Government while making appointment of Estate Officer in relation to the premises of the respondent No. 3 was to decide the rank of the Officer who will exercise the power under Section 3. Thus, the area of discretion vested in the Central Government in the appointment of Estate Officer under Section 3 of the Act in relation to the premises of the respondent No. 3 is extremely narrow inasmuch as it is only to the extent of deciding the rank of the Officer who is to exercise the power.....”

15. The arguments as sought to be raised on behalf of the petitioners are squarely answered in the said decision. Thus, in the present case the requirement of appointing an Estate Officer under Section 3 of the said Act is complied with by the Central Government by issuing the notification dated 18th August 1993. There is no dispute raised on the validity of the said notification. The said notification notifies the designation of the officer for the purpose of the said Act,

and also defines the jurisdictional local limits and categories of premises in respect of which the Estate Officer shall exercise the powers conferred and perform the duties under the said Act. Thus, it is clear that the present Estate Officer holding the designated rank of the officer notified by the said notification is empowered to exercise all the powers and perform the duties under the said Act. By letter dated 15th January 2021, respondent no. 2 has only informed the concerned officer that since he is appointed as Chief Manager, Premises and Equipments, he will be working as an Estate Officer under the said Act.

16. I have not been shown any record and/or any objection stating that the said Estate Officer is not holding the rank of the Chief Manager, the Premises and Equipments. There is neither any objection indicating that the said officer is not an officer within the jurisdiction of Bombay and New Bombay as notified by the said notification. So far as the objection raised regarding pointing out the address in the notification i.e. Central Office, Bombay is concerned, learned counsel for respondent nos. 1 and 2 submitted that the address mentioned in the letter dated 15th January 2021 is only

because there is a change in the office address and that there is no change in the jurisdiction. Thus, the change in address in the letter dated 15th January 2021 cannot be interpreted to mean that the present Estate Officer is not the Chief Manager, Premises and Equipments as notified in the said notification.

17. The Estate Officer in the impugned order has considered all the objections raised on behalf of the petitioners. He has referred to the relevant sections of the said Act and the particulars of appointment of the Estate Officer under the said Act and the gazette notification. Thus, I do not see any error or any illegality in the impugned order warranting any intervention under Article 227 of the Constitution of India. I do not find any substance in the arguments raised on behalf of the petitioners.

18. Learned counsel for the petitioners relied upon the decision of the Hon'ble Supreme Court in the case of ***Ramchandra Keshav Adke (Dead) by Lrs and others Vs. Govind Joti Chavare and Others***². The said decision is relied upon in support of the submissions that once

² (1975) 1 Supreme Court Cases 559

there is a rule requiring to do a certain thing in a certain way, it has to be done in that way. There cannot be any debate on the proposition of law laid down in the said decision. The said decision and the observations relied upon by the learned counsel for the petitioners in paragraph 25 of the said decision are with reference to the facts of the said case, which were arising out of the proceedings under the Maharashtra Tenancy and Agricultural Lands Act, 1948. In the said decision, considering the peculiar facts of that case, the Hon'ble Supreme Court has relied upon the well-established principles of law laid down in the case of *Nazir Ahmed V. The King Emperor*³. So far as the present case is concerned, I do not see any reason for interpreting the letter dated 15th January 2021 as sought to be interpreted by the learned counsel for the petitioners. Notification dated 18th August 1993, notifying the designation of the officer to be appointed under Section 3 of the said Act is clear and I do not see any reason to disbelieve the stand of respondent no. 2 that the present Estate Officer is the officer holding the rank as designated by the said notification. Hence, the reliance placed by the learned counsel for the petitioners on the

³ AIR 1936 PC 253 (2)

decision of ***Ramchandra Keshav Adke*** is of no assistance to the arguments raised on behalf of the petitioners.

19. Thus, there is no substance in the arguments made on behalf of the petitioners. The petition is devoid of any merits.

20. For the reasons stated above, the petition is dismissed.

21. At this stage, learned counsel for the petitioners requests to extend the interim relief granted by this court on 2nd May 2023. The said interim relief is extended for a period of four weeks from today.

[GAURI GODSE, J.]