

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15809 OF 2023**

Shapoorji Pallonji and ... Petitioner
Company Private Limited

Vs.

The New India Assurance ... Respondent
Company Limited

Mr. Arun Siwach a/w. Ms. Priyanka Mitra and Mr. Karan Khetani,
Advocate i/b. Cyril Amarchand Mangaldas for the Petitioner.
Mr. V. Y. Sanglikar for the Respondent.

CORAM : GAURI GODSE, J.

DATE : 2nd JANUARY 2024

P.C.

1. Heard. Rule.
2. Mr Sanglikar waives service for the respondent. Rule made returnable forthwith. By consent of parties taken up for final disposal.
3. By this petition, three orders passed by the Estate Officer are

challenged. By the first order dated 23rd August 2023, the Estate Officer has rejected the petitioner's request to grant liberty to counter any fresh documents and/or instances to the valuation report that will be submitted as additional documents by the respondent.

4. By order dated 14th September 2023, the Estate Officer had taken on record the fresh documents filed by the respondent and directed that further filing of additional compilation of documents by the petitioner will not be allowed.

5. By the third impugned order dated 26th October 2023, the application filed by the petitioner for framing the issue on limitation as the preliminary issue was rejected.

6. Learned counsel appearing for the respondent states that filing of compilation of additional documents on behalf of the respondent is completed, and no further documents are to be filed. He further states that the respondent has no objection if the petitioner responds to the additional documents by way of documentary or oral evidence. However, he states that the petitioner should complete the procedure of filing of documentary or oral evidence by the next date.

7. Learned counsel for the petitioner states that the petitioner will file oral as well as documentary evidence latest on or before 17th January 2024.

8. So far as the third impugned order rejecting the application for framing the issue on limitation as the preliminary issue is concerned, learned counsel for the petitioner states that he does not press for the issue of limitation to be decided as a preliminary issue; however, it may be clarified that the issue of limitation shall be framed by the Estate Officer along with the other issues.

9. Both the counsels state that within one week from today, they will file their draft issues.

10. The first termination notice is dated 9th February 2001. Considering the long pendency of the proceeding, the proceeding must be decided as expeditiously as possible, in as much as expeditious disposal of proceedings is already contemplated under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Since parties have agreed to the procedure to be followed as recorded hereinabove, I do not see any impediment for

the Estate Officer to decide the proceeding expeditiously. It is a well-established principle of law that the Estate Officer shall adopt the procedure that is in conformity with the principle of natural justice. Hence, it will be appropriate to formulate the points/issues of the decision and decide them in accordance with the law. The Hon'ble Supreme Court, by Order dated 21st July 2023, has clarified that even the question with regard to the objection raised on limitation is kept open to be urged by the petitioner.

11. In view of the aforesaid, the petition is disposed of by passing the following order :

- (i) Both parties shall file draft issues before the Estate Officer on/or before 9th January 2024.
- (ii) The petitioner shall file the oral as well as documentary evidence on/or before 17th January 2024, failing which the Estate Officer shall be at liberty to proceed with the matter.
- (iii) The Estate Officer is at liberty to fix the date for the final hearing/disposal of the matter.
- (iv) Parties agree to appear before the Estate Officer on 17th January 2024 to fix the further date in the matter.

- (v) Both counsels agree that no adjournment will be sought by the parties, and the parties will cooperate for the final disposal of the proceeding.
- (vi) The Estate Officer shall decide the proceeding expeditiously and shall endeavour to decide the proceedings by 15th March 2024.
- (vii) Writ Petition stands disposed of in the above terms.
- (viii) All concerned to act on an authenticated copy of this order.

[GAURI GODSE, J.]