



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 6821 OF 2022

Shri Shivmoori Jagatdev Kushwaha
Partner of M/s Stuti Enterprises

...Petitioner

vs.

Assistant Division Engineer
Divisional Railway Mangers
Office

...Respondent

ALONGWITH
INTERIM APPLICATION NO. 8021 OF 2024
IN
CIVIL WRIT PETITION NO. 6821 OF 2022

Assistant Division Engineer

...Applicant

vs.

Shivmoori Jagatdev Kushwaha
Partner of M/s Stuti Enterprises

...Respondent

ALONGWITH
CIVIL WRIT PETITION NO. 2215 OF 2024

Union of India

...Petitioner

vs.

The Liquidator

...Respondent

ALONGWITH
CIVIL WRIT PETITION NO. 6798 OF 2022

The Liquidator The Mumbai
Chhatrapati Shivaji Terminus
Central Railway Employees
Soc. Ltd.

...Petitioner

vs.

Central Railway Thr The Asst.
Divisional Engineer and Anr.

...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 8020 OF 2024
IN
CIVIL WRIT PETITION NO. 6798 OF 2022**

Central Railway Through The Asst.
Divisional Engineer and Anr.

...Applicant

vs.

The Liquidator

...Respondent

Mr. Vinod Sanglikar a/w Mr. Vinod Gajangi	Advocate for the Petitioner in WP 6798 of 2022 and Respondent No. 2 in WP 6821 of 2022 and in WP 2215 of 2024
Mr. Viren Asar a/w Mr. Ahuramazda Postvala, Mr. Suraj Shetye, Ms. Sakina Lokhandwala i/by Ms. Hetal Patel	Advocate for Petitioner in WP 6821 of 2022 and IA 8021 of 24 and for Respondent No. 2 in WP 2215 of 2024 and in WP 6798 of 2022
Sr. Adv. R. V. Govilkar a/w Mr. R. P. Ojha a/w Mr. T. J. Pandian and Mr. Gautam Modanwal a/w Mr. Noorjahan Khan i/by Mr. Ankit Ojha and Mr. Rakesh Dubey	Advocate for Respondent No. 1 in WP 6798 of 2022 and Respondent Nos. 1 and 2 in WP 6821 of 2022 and Applicant in IA 8021 of 2024 and Petitioner in WP 2215 of 2024

CORAM : S. M. MODAK, J.

DATE : 08th OCTOBER 2024

P. C. :-

1. Heard learned Advocate Shri Sanglikar for the Liquidator.
2. He has taken me through various documents including alleged

termination notice, show cause notice issued by Estate Officer, answers given by Railway representative in the cross-examination and certain findings by learned Principal Judge. Today he has raised two grounds. They are as follows:-

(i) **The notice on page no. 193 cannot be treated as termination notice, because there is no termination effected immediately.** To buttress his submission, he has invited my attention to the following facts:-

- (a) the findings given by the learned Principal Judge in para no. 27, page no. 79 of the Volume No. 1.
- (b) Answers given by Railway representative to question nos. 35, 36 and 41 on page no. 536 of the Vol. No. 2.

(ii) He submitted that the **show cause notice issued by Estate Officer** on page no. 50, Vol. No. 1, cannot be said to be notice issued as **per provisions of the Public Premises** (Eviction of Unauthorised Occupants) Act. He invited my attention to the following provisions of the Public Premises Act:-

- a) Form Nos. (A) and (F) as per Rule 3.

(iii) The estate officer was biased. To buttress his submission, he

invited my attention to the application made before the Estate Officer on page no. 74, Vol. 2, permission sought by the Liquidator from the Assistant Registrar. It records the presence of the Estate Officer Shri Jain.

3. To buttress his submission, he relied upon the observations in case of *Gajanan Shivram Lele Vs. Dena Bank and Anr.*¹

4. During the midst of the argument, learned Senior Advocate Shri Govilkar submitted that even though there was liquidator appointed his term has come to an end after expiry of 10 years. Hence, he cannot prosecute this writ petition. By consent, this issue be decided first as preliminary issue.

5. Whereas learned Advocate Shri Sanglikar and learned Advocate Shri Viren Asar submitted that in fact Railway premises are not public premises and they want to rely upon judgment given by the Uttarakhand High Court and other judgments. They requested to decide this issue as preliminary issue. He may supply copy of the judgment to the other side.

6. Let matter be kept on **16.10.2024, high on board** for hearing the

1 2015 (3) Mah. L.J. 735

Parties on above said two issues.

7. Ad interim relief granted earlier to continue till next date.

[S. M. MODAK, J.]