



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4003 OF 2025

1] Rajendra Kashinath Mali
2] Sushilkumar Prabhakar Chaudhari
3] Radheshyam Prabhakar Neriya
4] Rekhabai Subhash Talera
5] Sarojbai Ishwarlal Jain
6] Lalchand Manikchand Jain .. Petitioners

Versus

The State of Maharashtra
Through its Principal Secretary,
Public Works Department,
Mantralaya, Mumbai and others .. Respondents

...
Advocate for the petitioners : Mr. Bhushan Mahajan
Addl. GP for the respondent – State : Mr. M.M. Nerlikar
...

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRADE, JJ.**

DATE : 24 MARCH 2025

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioners.

2. The petitioners are coming with following prayers :

(B) By issuing an appropriate writ, order or direction, an Eviction Notices dated 24.02.2025 (EXHIBIT – “D” Collectively) issued by respondent No. 3 – Village Panchayat, Fattepur may kindly be quashed and set aside;

(C) The respondent No.3-Village Panchayat, Jamner may kindly be directed not to take coercive action pursuant to the Eviction Notices dated 24.02.2025 (EXHIBIT – “D” Collectively) till completion of the bridge.

3. The learned advocate for the petitioners submits that the petitioners are holding the shops of the village *panchayat* on lease since the year 1998. The work of construction of a bridge has been undertaken by the Public Works Department. It issued a communication to the respondent – village *panchayat* dated 27.12.2024, pointing out that it is unable to carry out the construction of the bridge as the shops of the petitioners are coming in the way and requesting for removing the shops. Another communication was issued to the gram *panchayat* by the Public Works Department on 25.02.2025, pursuant to which, the gram *panchayat* has sent the petitioners final notices dated 24.02.2025, calling upon them to vacate the shops, else it would be done forcibly.

4. Learned advocate further points out that representation was made by all the petitioners on 27.01.2025 addressed to the *sarpanch* and calling for intervention and expressing that they would be on streets, if evicted from the shops, wherein they have been carrying out businesses and would stop their source of earning.

5. Learned advocate submits that when the petitioners are in permissive possession of the shops for years together, they could not have been directed to be vacated abruptly and are seeking protection.

6. We have considered the submissions.

7. Though the petitioners are claiming to be in permissive occupation and though at places, they are claimed to be the lease holders, it is quite evident that they are merely licencees in possession of the *gram panchayat* shops. Consequently, they do not have an independent right analogous to the rights of a lessee. Being the license holders, they cannot assert any right to continue to occupy the shops in perpetuity.

8. Accepting the stand of the petitioners and the papers annexed to the petition, it is not that the action is being initiated abruptly without any notice. They have been aware about request of the Public Works Department and consequently, action under challenge.

9. In our considered view, when there are no allegations attributing *mala fides* on the part of either the village *panchayat* or Public Works Department and when there is no factual dispute that the shops which the petitioners are occupying and adjoining constructions are also sought to be removed, to enable construction of the bridge, which is obviously in the public interest, individuals with limited interest as licencees, should give way for larger public interest.

10. In the light of the above, in our considered view, it would not be appropriate to exercise the extraordinary power of this Court under Article 226 of the Constitution of India.

11. The petition is dismissed in *limine*.

[Y. G. KHOBRADE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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