



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 8620 OF 2024

DR. RAMPRASAD S/O MADHAVLAL PORWAL  
VERSUS  
THE STATE OF MAHARASHTRA (REVENUE) AND OTHERS

Party in Person for the petitioner  
Mr. D. B. Bhange, AGP for the respondent/State

CORAM : R. M. JOSHI, J.  
DATE : 25<sup>th</sup> FEBRUARY, 2025

**PER COURT :-**

1. Petitioner is aggrieved by order dated 11<sup>th</sup> January, 2024 passed by the Resident Deputy Collector, Jalna and Competent Authority under the provisions of The Bombay Government Premises (Eviction) Act, 1955 (for short 'the Act') has preferred this petition.

2. The petitioner has moved an application before the Competent Authority under Sections 4(1) and 5(2) of the Act for taking action of removal of encroachment of Survey No. 246/1 (old Survey No. 307) situated at Old Mondha. The petitioner is corporator of Municipal Council, Partur. He claims that there is encroachment caused on Survey No. 307 belonging to the Government. There is also allegation against the resident of the Municipal Council of commission of misappropriation while passing resolution for granting the permission for construction of

shops on the said land. The said application was heard and rejected by passing impugned order. It is held while passing the said order that the application filed by the petitioner is not maintainable and that it is open for the Government or the Authority of the Government to initiate the proceeding under the said Act. Similarly, in respect of the other allegations such as alleged corrupt acts, attempt to bribe the petitioner etc. were not considered for want of jurisdiction.

3. Party in person submits that there is no dispute about the fact that Survey No. 307 is Government land and that there could not have been any encroachment permissible thereon. It is his contention that the said subject matter is duly covered by the provisions of the Act and hence, the proceeding initiated by the petitioner before the Competent Authority is maintainable. He drew attention of the Court the allegations against the shop owners of offering bribe to him through relative of President. Thus, it is his contention that this is a fit case wherein the order impugned deserves to be set aside and appropriate direction needs to be issued to the Authority under the Act to remove encroachment from the subject land.

4. Since submissions were made by the party in person about about he being offered bribe in the capacity of a Councilor of the Municipal Council, a query was raised to him as to whether any complaint

was made by him with the Police Authorities/ Anti Corruption Bureau in this regard. The petitioner has made statement that he did not lodge any such complaint, which is not a conduct of a prudent man. This Court finds nothing on record which could have prevented the petitioner from lodging a complaint against the person who had offered such bribe to him. Therefore this Court finds no reason to accept the contention of the petitioner at this stage that he was offered any bribe.

5. As far as the maintainability of the application by the petitioner under the provisions of the Act is concerned, it would be relevant to take note of the provisions of the said Act. Sections 3(A) (B), 4 and 5 of the Act indicate that Estate Officer has power to issue notice for the removal of the encroachment on the Government land. The entire scheme of the Act does not contemplate initiation of action by any individual other than the Government/Authority of the Government. The petitioner was unable to show any provisions in the said Act which would enable him to initiate the proceeding in question nor any binding precedent is cited before this Court to substantiate his submission.

6. In absence of any locus standi of the petitioner to initiate such proceeding, the Competent Authority was justified in passing impugned order of dismissing the application with observation that the petitioner lacks locus standi to initiate such proceeding.

7. Having regard to the provisions of the Act, this Court finds no perversity in the said finding. Merely because, some encroachment is their on the Government land, it is not open for any person to initiate the proceeding under this Act though he can initiate any other proceeding as provided by the law. As a result above discussion, there is no merit in the petition. Hence, petition stands dismissed.

**(R. M. JOSHI, J.)**

ssp