

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12364 OF 2025**

M/s. Ramnarain Sons Pvt Ltd	...Petitioner
<i>Versus</i>	
The Board of Mumbai Port Authority & Ors.	...Respondents

Mr. Husefa Nasikwala a/w Sujit Mashal i/b H. N. Nasikwala, for the Petitioner.
Mr. Mandar Bangale i/b Bangale & Associates, for the Respondents.

CORAM: PRONOUNCED ON UPLOADED ON	MADHAV J. JAMDAR, J. 11th DECEMBER 2025 31st DECEMBER 2025
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JUDGMENT:

1. Heard Mr. Nasikwala, learned Counsel appearing for the Petitioner and Mr. Bangale, learned Counsel appearing for the Respondents.

2. The challenge in this Writ Petition filed under Article 227 of the Constitution of India is to the order dated 13th August 2025 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-70 in L.E. & C. Suit No.103/123 of 1983 as also to the order dated 12th September 2025 passed by the learned Division Bench of the Small Causes Court, Mumbai in Revision Application

No.239 of 2025. The said Application below Exhibit-70 has been filed by the present Petitioner who is the Defendant No.1, seeking rejection of plaint under Order VII Rule 11(d) of the Code of Civil Procedure Code, 1908 (hereinafter referred as “**CPC**” for short). The said Application has been rejected by the impugned order dated 13th August 2025 by the learned Judge of the Small Causes Court, Mumbai and the same is confirmed by the Revisional Court by the impugned order dated 12th September 2025.

3. Mr. Nasikwala, learned Counsel appearing for the Petitioner submitted that in view of Section 15 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred as “**PPE Act**” for short), no Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any public premises or for the arrears of rent. He submits that the jurisdiction is only that of the Estate Officer who has been appointed under the PPE Act. Therefore, he submits that as the Small Causes Court, Mumbai has no jurisdiction the plaint is liable to be rejected. He points out Division Bench judgment of this Court in the case of *Hussainali*

*Sharif Punjwani vs The Board of Trustees of Port of Bombay*¹ and more particularly Paragraph No.73 of the same. He therefore submits that what is held by the Division Bench is that Small Causes Court would have jurisdiction to hear all such suits for eviction which were lodged/filed before the 21st September 1989 and on the other hand the Small Causes Court would continue to have jurisdiction to decide those suits which were pending on 21st September 1989. He further submits that although the subject suit has been filed on 12th April 1983 in Small Causes Court, Mumbai, meanwhile, the Estate Officer was appointed on 22nd September 1989 and the said Suit was transferred from Small Causes Court, Mumbai to the High Court on 22nd April 1996 and the same was transferred to the City Civil Court in view of increase in pecuniary jurisdiction of the City Civil Court on 24th September 2013, however, the City Civil Court transferred the said suit back to the High Court on 05th April 2014 and thereafter, the High Court has transferred the same to the Small Causes Court by order dated 07th May 2015. He therefore, submits that it has to be assumed that the suit has been filed in the Small Causes Court in the year 2015 and therefore in terms of the law laid down by the Division Bench in

1 (2017) SCC OnLine Bom.2637

the case of *Hussainali Sharif Punjwani* (supra), the Small Causes Court has no jurisdiction to deal with the said suit.

4. On the other hand, Mr. Bangale, learned Counsel appearing for the Board of Mumbai Port Authority, submitted that what is important is the date of the institution of the Suit which is admittedly 12th April 1983. He further submits that as the date of the institution of the Suit is of 12th April 1983 i.e. on or before 21st September 1989, in terms of the law laid down by the Division Bench in the case of *Hussainali Sharif Punjwani* (supra), the Small Causes Court has jurisdiction to deal with the said Suit.

5. Before considering the rival contentions it is necessary to set out certain factual aspects :-

- i. The subject suit being L.E. & C. Suit No.103/123 of 1983 was filed on 12th April 1983 before the Small Causes Court, Mumbai by the present Respondents i.e. the Plaintiffs against the present Petitioner i.e. Defendant for eviction on the ground that the Petitioner is in unauthorized occupation of the suit premises and for recovery of the arrears of rent.

- ii. The Estate Officer under PPE Act was appointed on 22nd September 1989.
 - iii. The said suit was transferred from the Small Causes Court to the High Court by order dated 22nd April 1996.
 - iv. In view of increase in pecuniary jurisdiction of the City Civil Court, the High Court transferred the suit to the City Civil Court on 24th September 2013.
 - v. On 05th April 2014 the City Civil Court transferred the matter back to the High Court, as it was noticed that the Suit was filed under the Provision of the Presidency Small Causes Courts Act and therefore, the City Civil Court has no jurisdiction to deal with the said Suit.
 - vi. The said Suit alongwith other many Suits were transferred to the Small Causes Court by a Division Bench of this Court by order dated 07th May 2015.
6. It is very relevant to note said order dated 07th May 2015 passed by the Division Bench of this Court, which reads as under :-

“1. These Suits were originally filed in the Small Causes Court, Mumbai being LEC No.498/523/86 and other connected matters. The Suits were transferred to this Court by an order dated 14th March 1997 of the Division Bench of this Court. Subsequently, the Suits were transferred to the City Civil Court upon enhancement of the pecuniary jurisdiction of the City Civil Court. However, the City Civil Court noticed that the Suits are filed under the Presidency Small Causes Courts Act and therefore, the City Civil Court transferred the Suits back to this Court and that is how the Suits are now listed before us.

2.In the facts and circumstances of the case, we are of the view that looking to the subject matter of the Suits which are for eviction of the Respondents-tenants filed by the Plaintiff- Board of Trustees of the Mumbai Port Trust, these suits are required to be transferred to the Small Causes Court, Mumbai.

3.The Prothonotary and Senior Master shall send back all these Suits to the Small Causes Court, Mumbai for expeditious trial in accordance with law.

4.Having regard to the facts that the Suits are pending since the year 1986 the Chief Judge, Small Causes Court, Mumbai shall assign the same to a Judge of the Small Causes Court, Mumbai for expeditious trial.

5.Suits are accordingly, disposed of, for statistical purpose, as far as this Court is concerned.”

(Emphasis added)

Thus, even Division Bench of this Court has also recorded that the Suits are pending since the year 1986 (although, the present Suit is pending since the Year 1983).

7. In the above background, it is necessary to consider the legality and validity of the impugned orders. The Application under Order VII Rule 11(d) has been filed and the same has been dismissed by the learned Judge of the Small Causes Court, Mumbai by impugned order dated 13th August 2025 and the said order has confirmed by the Revisional Court by order dated 12th September 2025. The impugned orders are passed *inter alia* on the basis of decision of the Division Bench in the case of *Hussainali Sharif Punjwani* (supra).

8. In the case of *Hussainali Sharif Punjwani* (supra) a learned Single Judge has referred following question to the Hon'ble Chief Justice for constituting Larger Bench to decide the same :-

“Whether the word “entertain” used in Section 15 of the Public Premises (Eviction) of unauthorized Occupants) Act, 1971 can be equated with the word “lodging/filing” of the Suit or will have to be interpreted to

*mean “consideration of merits of the Suit”
or “the date of framing of issues in the Suit”*

The said reference was necessitated as there was difference between the opinion of two learned Single Judges.

9. The Division Bench answered the said reference in the decision in *Hussainali Sharif Punjwani* (supra) in Paragraph No.72 of the reference order and the Division Bench observed that, the real question which fell for consideration was : whether jurisdiction of the Small Causes Court to hear and decide the suits filed by BPT which were pending was taken away and whether from that date the Small Causes Court lost jurisdiction to entertain the suit? and answered the same in Paragraph No.73 as follows :-

73. In the result, accepting the submission so the learned Senior Counsel Mr. Aaney appearing for the Respondents/BPT and rejecting the submissions of the learned Senior Counsel Mr. Kumbhakoni appearing for the Applicant, we hold that the word “entertain” used in Section 15 of the said Act would mean that the Small Cause Court would have jurisdiction to hear all such suits for eviction which were lodged/filed before 21/09/1989 and on the other hand the Small Causes Court would continue to have jurisdiction to decide those suits which were pending as on 21/09/1989. The Reference is answered accordingly. All these matters are

remanded to the learned Single Judge for deciding the other issues.”

(Emphasis added)

Thus, what the Division Bench has held in the order answering the reference is that the word “entertain” used in Section 15 of the PPE Act would mean that the Small Causes Court would have jurisdiction to hear all such suits for eviction which were lodged/ filed before 21st September 1989 and the Small Causes Court would continue to have jurisdiction to decide those Suits which were pending as on 21st September 1989. The Division Bench determined said date of 21st September 2019 as the Estate Officer was appointed under the PPE Act on 22nd September 1989

10. In view of the manner in which the said reference is decided by the Division Bench, it is the submission of Mr. Nasikwala, learned Counsel appearing for the Petitioner that as on 22nd April 1996 the Suit was transferred from Small Causes Court to the High Court, from High Court to the City Civil Court, from City Civil Court to High Court and again from High Court to the Small Causes Court and therefore, it cannot be held that the Suit is pending in the Small Causes Court as on 21st September 1989.

Therefore, the Small Causes Court will have no jurisdiction to deal with the said suit.

11. To appreciate the said contention raised by Mr. Nasikwala, learned Counsel appearing for the Petitioner, it is necessary to set out Section 15 of the PPE Act, which reads as under :-

15. Bar of jurisdiction.- No Court shall have jurisdiction to entertain any suit or proceeding in respect of-

(a) the eviction of any person who is in unauthorised occupation of any public premises, or

(b) the removal of any building, structure or fixture or goods, cattle or other animal from any public premises under section 5-A, or

(c) the demolition of any building or other structure made, or ordered to be made, under section 5-B, or [(cc) the sealing of any erection or work or of any public premises under section 5-C, or

(d) the arrears of rent payable under sub-section (1) of section 7 or damages payable under sub-section (2), or interest payable under sub-section (2-A), of that section, or

(e) the recovery of-

(i) costs of removal of any building, structure or fixture or goods, cattle or other animal under section 5-A, or

(ii) expenses of demolition under section 5-B, or

(iii) costs awarded to the Central Government or statutory authority under sub-section (5) of section 9, or

(iv) any portion of such rent, damages, costs of removal, expenses of demolition or costs awarded to the Central Government or the statutory authority.]

(Emphasis added)

Thus, Section 15 of the PPE Act, provides that no Court shall have jurisdiction to entertain any suit or proceeding *inter-alia* in respect of the eviction of any person of any public premises or concerning the recovery of arrears of rent.

12. Thus, in view of said Section 15 of the PPE Act what has been held by the Division Bench while answering said Reference is that although, Section 15 was introduced in the PPE Act with effect from 20th December 1980, the Estate Officer was appointed on 22nd September 1989 and therefore, the Court has held that Small Causes Court have jurisdiction to hear all such Suits for eviction which were lodged/filed before 21st September 1989.

13. It is required to be noted that the Division Bench was considering the specific provision under Section 15 that “no Court shall have jurisdiction to entertain any Suit or proceeding”.

14. Thus, whether the Suit is pending before the Small Court or any other Court is totally irrelevant aspect. In the matter which has been referred the Suit was pending in the Small Causes Court and therefore, the reference has been answered in the manner as set out in Paragraph No.73. The reference answered in Paragraph No.73 by the Division Bench and the principle set out therein will apply to a suit which has been instituted in any Court as what is important is applicability of the PPE Act and therefore exclusive jurisdiction of authorities constituted under the PPE Act and bar of jurisdiction of any other Court, as Section 15 of the PPE Act which has come into effect with effect from 20th December 1980 provides that no Court shall have jurisdiction to entertain any suit or proceeding which are more particularly set out in Section 15 of the PPE Act.

15. The Division Bench has held that, inspite of Section 15 providing bar of jurisdiction which has come into effect with effect from 20th December 1980 eviction suits lodged/filed before 21st September 1989 will be decided by the Courts in which the same are instituted and pending as on 21st September 1989. The said conclusion is drawn as Estate Officer has been appointed on 22nd September 1989. The same has nothing to do with the pendency of

the suit in the Small Causes Court, Mumbai. Paragraph No.73 of the Division Bench order in the case of *Hussainali Sharif Punjwani* (supra) is required to be read in the light of the specific provision under Section 15 of the PPE Act.

16. In this particular case it is very significant to note that, the Suit has been filed on 12th April 1983 under the provision of the Presidency Small Causes Court Act, 1882 in the Small Causes Court, Mumbai. Meanwhile, Estate Officer was appointed on 22nd September 1989 when the said suit was pending before the Small Causes Court. Thereafter, the Suit was transferred from Small Causes Court to the High Court on 22nd April 1996 and in view of increase in pecuniary jurisdiction the Suit was transferred to the City Civil Court, Mumbai on 24th September 2013 and City Civil Court, Mumbai transferred back the matter to the High Court on 05th April 2014. Further, the Division Bench of this Court transferred the same Suit to the Small Causes Court, Mumbai on 07th May 2015. In any case inspite of the transfer and re-transfer the Suit is admittedly lodged/filed before the Small Causes Court on 12th April 1983 and the date of lodging/institution of the suit remains the same. Thus, the Suit has been lodged/filed on or

before 21st September 1989 which is a crucial date for deciding whether the Court has got jurisdiction to deal with the said Suit.

17. Thus, in view of the law laid down by the Division Bench in the case of *Hussainali Sharif Punjwani* (supra) and in view of the discussion herein above there is no merit in the Writ Petition.

18. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]

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