

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10660 OF 2023**

Bank of India, through Attorney

Ms. Vaishali Damodar RamtekePETITIONER

: VERSUS :

Rajendra Balkrishna SalunkheRESPONDENT

WRIT PETITION NO. 10661 OF 2023

Bank of India, through Attorney

Ms. Vaishali Damodar RamtekePETITIONER

: VERSUS :

Suresh Umakant LaleRESPONDENT

WRIT PETITION NO. 10661 OF 2023

WITH

INTERIM APPLICATION NO. 13818 OF 2024

Bank of India, through Attorney

Ms. Vaishali Damodar RamtekePETITIONER

: VERSUS :

Suresh Umakant KaleRESPONDENT

WRIT PETITION NO. 626 OF 2024

Bank of India, through Attorney

Ms. Vaishali Damodar RamtekePETITIONER

: VERSUS :

Prasad Heramb DeshpandeRESPONDENT

WRIT PETITION NO. 628 OF 2024

Bank of India, through Attorney

Ms. Vaishali Damodar Ramteke

....PETITIONER

: **VERSUS :**

Vilas Keshav Beharay & Anr.

....RESPONDENTS

WRIT PETITION NO. 627 OF 2024

Bank of India, through Attorney

Ms. Vaishali Damodar Ramteke

....PETITIONER

: **VERSUS :**

Kusum Bhanudas Bhosale

....RESPONDENT

WRIT PETITION NO. 9820 OF 2023

Bank of India, through Attorney

Ms. Vaishali Damodar Ramteke

....PETITIONER

: **VERSUS :**

Yadnesh Chandrashekar Nagarkar

....RESPONDENT

Mr. Sunil M. Kadam *with Mr. Abhishek Godwin, for the Petitioner.*

Mr. Sagar Bhirange, *for the Respondent in WP-10660-2023 and WP-9820-2023.*

Mr. R.D. Soni *i/b. Mr. Sandeep R. Waghmare, for the Respondent in WP-10661-2023 and WP-628-2024.*

Mr. Anand Lawate *i/b. Mr. Sandeep R. Waghmare, for the Respondent in WP-627-2024 and WP-626-2024.*

CORAM : SANDEEP V. MARNE, J.

DATED : 2 APRIL, 2026.

P.C. :

1) These six petitions are filed by the Petitioner-Bank of India challenging judgments and orders dated 5 February 2021 passed by the

District Judge, Pune by which Public Premises Eviction Appeals (**P.P. Appeals**) filed by Respondent-Occupants have been allowed and the eviction orders passed by the Estate Officer on 8 July 2019 are set aside.

2) I have heard Mr. Kadam, the learned counsel for the Petitioner, Mr. Bhirange, the learned counsel for the Respondents in Writ Petition No. 10660 of 2023 and Writ Petition No. 9820 of 2023, Mr. Soni, the learned counsel for the Respondents in Writ Petition No. 10661 of 2023 and Writ Petition No. 628 of 2024, and Mr. Lawate, the learned counsel appearing for Respondents in Writ Petition No. 626 of 2024 and Writ Petition No. 627 of 2024.

3) During the course of hearing of the Petition and on perusal of the order passed by the learned District Judge, it appears that one of the major reasons why the Appeals are allowed are on account of judgment of the Apex Court in Dr. Suhas H. Pophale vs. Oriental Insurance Company Limited and its Estate Officer¹. In recent judgment of the Apex Court in Life Insurance Corporation of India (LIC) and Anr. vs. Vita Pvt. Ltd.², the larger Bench of the Apex Court has answered the issue of correctness of ratio in *Dr. Suhas H. Pophale* (supra). The Apex Court has concluded that a person in unauthorised occupation of public premises under Section 2(e) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (**P.P. Act**) cannot invoke protection of either of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (**Bombay Rent Act**) or the Maharashtra Rent Control Act, 1999. In view of subsequent judgment of the Larger Bench in *LIC Versus. Vita* (supra), the findings recorded by the

1 AIR 2014 SC 1509

2 2025 SCC Online SC 2772

Appellate Court about impermissibility to take action against the occupants under the P.P. Act are unsustainable and liable to be set aside. The position of law as it stands now is that provisions of P.P. Act are applicable in respect of the occupants of premises belonging to the Respondent. The limited remit of enquiry is now with regard to the correctness of eviction orders passed by the Estate Officer.

4) It is the contention of the Respondents that principles of natural justice were violated with impunity by the Estate Officer while passing the impugned eviction orders. They complain that the eviction orders are passed in a tearing hurry without grant of proper opportunity of defence. More importantly, the Respondents make out a point that two separate eviction orders, both dated 8 July 2019, exist on record. According to the Respondents, a concise order dated 8 July 2019 containing no reasons were served on them, which were challenged by them before the District Court. On the other hand, the Petitioner-Bank produced detailed version of orders dated 8 July 2019 containing elaborate reasons for eviction alongwith their affidavit-in-reply. It is the case of the Respondents that the detailed version of the order dated 8 July 2019 was never served on them. It appears that both the versions of order dated 8 July 2019 were placed before the District Court. However, no findings are recorded in the impugned judgment about existence of two orders, both dated 8 July 2019. While allowing the Appeals, the District Court was swayed mainly by the judgment in *Dr. Suhas H. Pophale* and apparently found it unnecessary to conduct an indepth inquiry into the aspect of correctness of the eviction order.

5) Since the District Court has allowed the Appeals mainly by placing reliance on the judgment of Apex Court in *Dr. Suhas H. Pophale*, it

would be necessary for the District Court to apply its mind to the issue of correctness of the eviction orders. In my view therefore, it would be appropriate to remand the Appeals for fresh decision by the District Court in the light of settled position of law that provisions of Public Premises Act apply to the premises in question and that occupants thereof are not entitled to claim benefit of rent control legislation.

6) Mr. Kadam, the learned counsel appearing for the Petitioner has strenuously relied upon judgments of this Court in *Vishwas Krishnarao Gangurde vs. Smt. Madhura Vishwas Gangurde and Ors.*³ and *Shrirang Eknath Chavan versus. Bank of India and Anr.*⁴ He submits that the issue involved in the present petitions is squarely covered by the decisions in *Vishwas Gangurde* and *Shrirang Chavan* (supra). However, it is seen that in those two cases, the District Judge had dismissed the Appeals preferred by the occupants/tenants and had upheld the eviction orders passed by the Estate Officer. One of the major reasons why the eviction of occupants in *Vishwas Gangurde* and *Shrirang Chavan* is upheld by the District Court is the act of unauthorised subletting, which was proved in both the cases. Both the cases involved an element of transfer of tenancy under the guise of transfer of business alongwith goodwill. The District Court found totally unrelated persons occupying the premises on account of unauthorised subletting. It is in the peculiar facts of those cases that this Court dismissed the petitions filed by the occupants/tenants and confirmed the concurrent orders passed by the Estate Officer and the District Court. In the present six petitions, the occupants/tenants have succeeded before the District Court. There is no allegation of unauthorised subletting and the original

3 Writ Petition No. 6715 of 2021 decided on 26 February 2026

4 Writ Petition No. 16675 of 2023 decided on 12 March 2026

tenants/occupants continue to possess their respective premises. In my view, therefore the decisions in *Vishwas Gangurde* and *Shrirang Chavan* would not apply to the facts of the present case.

7) As observed above, the District Court found it unnecessary to conduct an elaborate enquiry into the correctness of eviction order on account of conclusion reached by it that the occupants/tenants were entitled to protection of rent control legislation due to inapplicability of the provisions of the P.P. Act and in view of judgment of the Apex Court in *Dr. Suhas H. Pophale*. Most importantly, the District Court did not notice existence of two separate orders, both dated 8 July 2019. Considering these peculiar circumstances of the present case, in my view, it would be appropriate to remand the Appeals for fresh decision by the District Court so that it can conduct a proper enquiry into the correctness of the eviction orders on account of settlement of other issue of application of provisions of P.P. Act. I accordingly proceed to pass the following order :

(i) Judgments and orders dated 5 February 2021 passed by the District Court are set aside. P.P. Appeals are remanded for fresh decision by the District Court on their own merits.

(ii) In the remanded Appeals, the District Court shall not go into the issue of application of provisions of P.P. Act and shall proceed on the footing that the Estate Officer had jurisdiction to initiate eviction proceedings and pass order under the provisions of the P.P. Act.

(iii) The eviction orders passed by the Estate Officer shall not be implemented till decision of the Appeals.

(iv) All contentions of parties, except applicability of provisions of the P.P. Act, are expressly kept open to be decided by the District Court.

8) With the above directions, the petitions are **partly allowed and disposed of**. The Interim Applications also stand disposed of.

[SANDEEP V. MARNE, J.]