

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 118 OF 2026

Riyaz Qureshi Son of Madina Qureshi & Ors ..Petitioners
Versus
Union of India Through Divisional Engineer LM ...Respondent

Mr. Rakeshkumar Dubey, for the Petitioner.
Mr. R.P. Ojha, for Respondent Nos. 1 and 2.
Smt. Y. D. Patil, AGP, for Respondent Nos. 3 and 4.

CORAM: N. J. JAMADAR, J.
DATE : 12th JANUARY 2026

ORAL ORDER:

1. Heard the learned Counsel for the parties.
 2. The challenge in this Petition is to identical orders passed by the Estate Officer purportedly under Section 5A of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (“the Act, 1971”).
 3. Mr. Dubey, the learned Counsel for the Petitioners submits that the impugned orders suffer from the vice of non application of mind as the notices were issued to the Petitioners under Sections 4 and 7 of the Act, 1971. However, the impugned orders have been passed under Section 5A of the Act, 1971.
 4. Mr. Ojha, the learned Counsel for the Respondent Nos. 1 and 2, fairly submitted that the Estate Officer is required to resort to correct
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provisions in the matter of the pre-eviction notices and pass an appropriate order in accordance with the provisions of the Act, 1971. The learned Counsel submitted that the Estate Officer may be, thus, directed to pass a fresh order under Section 5 of the Act, 1971.

5. From the perusal of the notice, it appears that the Estate Officer issued the notice under Sections 4, 7 and sub-Section (2) of Section 5A of the Act, 1971. There is a qualitative difference between the eviction under Sections 5 and 7, on the one part, and Section 5A of the Act, 1971, on the other part. The remedy in case of eviction under Sections 4 and 7 and that under Section 5A of the Act, 1971, are distinct.

6. In this view of the matter, the Court considers it appropriate to quash and set aside the impugned orders as well as the eviction notices with liberty to the Estate Officer to issue fresh notices to the Petitioners under an appropriate Section of the Act, 1971, and, thereafter, hold an appropriate enquiry and pass order in accordance with law.

7. Hence, the following order:

: O R D E R :

- (i) The Petition stands party allowed.
- (ii) The impugned orders stand quashed and set aside. Likewise, the composite notices under Sections 4 , 7 and sub-Section

(2) of Section 5A of the Act, 1971 also stand quashed and set aside.

(iii) The Estate Officer is at liberty to issue fresh notices to the Petitioners by invoking appropriate provisions of the Act, 1971 and thereafter take appropriate action under the Act, 1971, in accordance with law.

[N. J. JAMADAR, J.]