2026:BHC-AS:27373

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 24 OF 2022

Life Insurance Corporation of India
A corporation formed and registered
under Life Insurance Corporation Act, 1956
XXXI of 1956 and having its Western Zonal
Office at Yogakshema, Jeevan Bima Marg,
Mumbai - 400 021 **… Applicant**

Versus

Abhishek Vasant Chavan
Aged about 24 years, Occu: Service
Residing at : Room No.12, Bldg. No. 160,
1st Floor, East and West Willa,
R - 1 - B, Grant Road (West),
Mumbai - 400 007. **… Respondent**

Adv. V. Y. Sanglikar a/w Adv. Payal Chheda for Applicant.

Adv. E. A. Sasi a/w Adv. Bhagyashree Mangle, Adv. Arnav Rane, Adv. Tejas Shinde, Adv. Bijoy Chacko for Respondent.

CORAM : ARUN R. PEDNEKER, J.

RESERVED ON : 24 JUNE, 2026

PRONOUNCED ON : 3 JULY, 2026

JUDGMENT :

1. By the present Civil Revision Application, the Applicant challenges the order passed by the Small Causes Court dismissing the Applicant's application under Order VII Rule 11(d) of the Code of Civil Procedure.

2. Applicant is aggrieved by the order of Small Causes Court holding that the Civil Court jurisdiction is not barred under the Rent Control Act by the provisions of Section 15 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for brevity, Act of 1971) for the Public Premises covered under the Act of 1971.

3. The brief facts giving rise to the present Civil Revision Application are as follows:-

3.1 The Respondent filed R.A.D. Suit No. 660 of 2012 in the Small Causes Court at Mumbai under the Rent Control Act against the Applicant in respect of premises i.e. Room No.12, Building No. 160, 1st Floor, East and West Willa, Grant Road (West), Mumbai which are public premises under the 1971 Act of owned by the Applicant. The prayer in the suit is as under:

> *(a) This Hon'ble Court may be pleased to declare that the Plaintiff is the tenant in respect of the suit premises being Room No.12, 1st floor of Building No. 160 known as East and West Willa, R-1-B, Grand Road (West), Mumbai - 400 007, admeasuring approx: 142 sq.ft, and entitled to have exclusive use, occupation and possession thereof.*

(b) This Hon'ble Court may be further pleased to declare that the Defendants have no right to dispossess the Plaintiff without following due process of law.

(c) Any such other and further orders/ directions as in the nature and circumstances of the case may be granted.

3.2 On 14 July, 2012 Applicant filed an application under Section 9A of the Civil Procedure Code in the said suit challenging the jurisdiction of the Small Causes Court as the suit premises are a public premise as defined in Act of 1971. On the direction of this High Court the application under Section 9A was directed to be treated as under Order VII Rule 11(d).

3.3 Meanwhile on 23 January, 2013 Applicant filed an application under Public Premises Act against the Respondent before the Estate Officer appointed under the Public Premises Act for eviction of the Respondent. On 20 January, 2015 Estate Officer passed an order of eviction of the Respondent and also ordered him to pay arrears of rent and damages under the Public Premises Act of 1971. The Respondent filed Misc. Appeal No.13 of 2013 under Section 9 of the Public Premises Act before Principal Judge, City Civil Court, Mumbai challenging the order dated 20 January, 2015 passed by the Estate Officer. The City Civil Court by its order dated 7 February, 2015 stayed the order dated 20 January, 2015 passed by Estate Officer. The said Misc. Appeal No.13 of 2013 filed by Respondent is pending before the City Civil Court.

3.4 On 20 June 2018 this Court in Writ Petition No. 2845 of 2018 directed to treat the application filed by the Applicant under Section 9A of

the Civil Procedure Code challenging the jurisdiction of Small Causes Court as one under Order VII, Rule 11(d) of Civil Procedure Code.

3.5 The Trial Court by its order dated 1 March, 2021 in RAD Suit No. 660 of 2012 rejected the application under Order VII, Rule 11(d) for rejection of plaint. Accordingly, the present Civil Revision Application is filed.

4. The learned counsel for the Applicant has taken me through the pleadings of civil suit filed by the Respondent and has pointed out that the Plaintiff in para 1 of the plaint has accepted that the Defendant No.1 is an Autonomous Public Sector Undertaking owned by the Government of India. The Plaintiff has claimed declaration of tenancy under the provisions of Maharashtra Rent Control Act that the Plaintiff has become the tenant of the subject premises and is entitled to use occupy and possess the premises as a tenant. The Plaintiff has prayed for declaration to that effect.

5. The learned counsel for the Applicant submits that the Supreme Court in the case of ***Ashoka Marketing Ltd. And Anr. Vs. Panjab National Bank And Ors.*** reported in 1990 (4) SCC 406, has held that the provisions of the Public Premises Act to be construed as overriding the provisions contained in the Rent Control Act.

The learned counsel also relies upon the judgment of ***Kaiser-I-Hind (P) Ltd. Vs. National Textile Corporation. (Maharashtra North) Ltd.*** reported in (2002) 8 SCC 182 to contend that the Bombay Rent Act would not prevail to the extent it repugnant with the Public Premises Act. He has

also relied upon the judgment of ***Jain Ink Manufacturing Company Vs. Life Insurance Company*** reported in (1980) 4 SCC 435 to contend that the Public Premises Act, provides for eviction of unauthorised occupants from the public premises by summary procedure, so that the premises may be available to the authorities mentioned in the Public Premises Act, which constitute a class by themselves. It is further argued that the suit is barred in view of Section 15 of Public Premises Act.

6. Per contra, the learned counsel appearing for Respondent on factual aspects has submitted that the tenancy of the Respondent is prior to the enactment of the Public Premises Act. It is submitted that the right vested in the Respondent under the Rent Control Act cannot be taken away by the Public Premises Act. It particularly places reliance on the judgment of ***Banatwala And Company Vs. Life Insurance Corporation of India*** reported in (2011) 13 SCC 446 to submit that the Public Premises Act is used for arbitrarily eviction and that the application for fixation of standard rent and for restoration of essential services shall be maintainable under the Rent Act, and the Rent Control Act would not be conflict of the Public Premises Act to that extent. It is submitted that the Supreme Court in the case of ***Life Insurance Corporation of India & Anr. Vs. Vita*** reported in 2025 SCC OnLine SC 2772 has not dealt with the judgment in the case of ***Banatwala And Company*** (supra).

It is also submitted that the judgment of the Supreme Court in the case of ***Dr. Suhas H. Pophale Vs. Oriental Insurance Co. and its Estate Officer*** reported in AIR 2014 SC 1509 takes into consideration various constitution bench judgments and that all the judgments referred in ***Dr. Suhas H. Pophale*** (supra) are not noticed in the subsequent judgment

of ***Vita*** (supra). It is stated that the Rent Control Act is not in derogation of the Public Premises Act and that the Rent Control has been enacted to regulate the private relationship between landlords and tenant, with the view confer certain benefits. It is submitted that the tenancy right is inheritable right. In that regard the Respondent have inherited the tenancy rights in the property.

7. Having considered the rival submissions, at the outset it is to be noticed that the Applicant has not produced *prima facie* evidence that the Applicant or their predecessor where inducted as tenant of the suit property even prior to Public Premises Act came into force. As such the defence raised that the rights accrued under the Rent Control Act prior to the Public Premises Act coming into force is factually incorrect. However even it is assumed that the Respondent is a tenant prior to the Public Premises Act coming into force, the same would still be hit by Section 15 of the Public Premises Act as can be seen from the later part of the judgment.

7 A. Section 2(e) and Section 15 of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980 are quoted below:

> ***Section 2(e)*** *"public premises" means*
>
> *(1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of the Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980 (61 of 1980) under the control of the Secretariat of either House of Parliament for providing residential accommodation to any member of the staff of that Secretariat;*

(2) any premises belonging to, or taken on lease by, or on behalf of,—

(i) any company as defined in section 3 of the 3[the Companies Act, 2013 (18 of 2013)], in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government or any company which is a subsidiary (within the meaning of that Act) of the first-mentioned company;

(ii) any corporation (not being a company as defined in section 3 of the 3[the Companies Act, 2013 (18 of 2013)], or a local authority) established by or under a Central Act and owned or controlled by the Central Government;

(iii) any company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013) in which not less than fifty-one per cent. of the paid up capital is held partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary (within the meaning of that Act) of the first-mentioned company and which carries on the business of public transport including metro railway.

Explanation.—For the purposes of this item, "metro railway" shall have the same meaning as assigned to it in clause (i) of sub-section (1) of section 2 of the Metro Railway (Operation and Maintenance) Act, 2002 (60 of 2002);

(iii) any University established or incorporated by any Central Act,];

(iv) any Institute incorporated by the Institutes of Technology Act, 1961 (59 of 1961);

(v) any Board of Trustees or any successor company constituted under or referred to in the Major Port Trusts Act, 1963 (38 of 1963);]

(vi) the Bhakra Management Board constituted under section 79 of the Punjab Reorganisation Act, 1966 (31 of 1966), and that Board as and when re-named as the Bhakra-Beas Management Board under sub-section (6) of section 80 of that Act.

(vii) any State Government or the Government of any Union territory situated in the National Capital Territory of Delhi or in any other Union territory,

(viii) any Cantonment Board constituted under the Cantonments Act, 1924 (2 of 1924); and]

***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 5A, or

(c) the demolition of any building or other structure made, or ordered to be made, under section 5B, or

[(cc) the sealing of any erection or work or of any public premises under section 5C, 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 (2A), 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 5A, or

(ii) expenses of demolition under section 5B, 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.]

8. The constitutional bench of the Supreme Court in the case of ***Ashoka Marketing Ltd. And Anr.*** (supra) has dealt with the issue of Public Premises Act as having overriding effect over the Rent Control legislation. However, the Supreme Court in a subsequent judgment of ***Dr. Suhas H. Pophale*** (supra) has taken a view that the ***Ashoka Marketing Ltd. And Anr.***

(supra) cannot be seen to be as an authority on the retrospective application of Public Premises Act. The Supreme Court in ***Dr. Suhas H. Pophale*** (supra) observed that ***Ashoka Marketing Ltd. And Anr.*** (supra) decided the issue whether the provisions of the Public Premises Act would override the provisions of Rent Control Act in relation to premises which fall within the ambit of both the enactments. However, in the subsequent larger bench judgment of the Supreme Court in ***Vita*** (supra), the Supreme Court dealt with the referred question as under:

> *1.1 The referral order dated 17.03.2015, aforementioned, reads as under:*
>
> *"In these petitions, in fact, the ratio decided by the two-Judge Bench of this Court in the case of Suhas H. Pophale vs. Oriental Insurance Company Limited and its Estate Officer, is contrary to the decision of the Constitution Bench rendered in the case of Ashoka Marketing Ltd. V. Punjab National Bank. Therefore, these matters need to be heard by a three-Judge Bench."*

The issue under reference is further explained by the Supreme Court in ***Vita*** (supra) at Para Nos. 2 and 2.1 as under:

> *2.* ***The principal question that arises for determination in this batch of matters is whether the provisions of the PP Act, 1971 would prevail over the respective State Rent Control legislations, in relation to premises let out prior to the commencement of the said Act, as against the premises let out after its enforcement but before their acquisition or transfer to the Government or any statutory corporation, by which the character of such premises stood transformed into "public premises" within the meaning of the Act.***
>
> *2.1 In other words, the issue that falls for determination is whether, for the purposes of application of the PP Act, 1971, a valid distinction can be made between tenants who were in*

occupation of the premises prior to the enforcement of the said Act and those who entered into occupation subsequent thereto but before such premises were taken over by the Government or a Government Corporation, as the case may be; and whether in such cases, the operation of the PP Act, 1971 is intended to be only prospective in nature.

The Supreme Court in ***Vita*** (supra) answered the questions raised in para Nos.12 and 13 as under:

12. In view of the foregoing discussion, reasons and analysis, the following positions of law emerges,

(a) In view of the law laid down by the Constitution Bench in Ashoka Marketing and the three-Judge Bench decision in M/s. Jain Ink, the view taken in Suhas H. Pophale which is a two-Judge Bench decision, is palpably incorrect and unjustified. Suhas H. Pophale cannot and does not hold the field.

(b) Since, the propositions laid down in Suhas H. Pophale runs contrary to the decisions laid down by the Benches of larger strength in Ashoka Marketing and M/s. Jain Ink, the same is bad in law.

(c) The ratio decided by the Bench of larger strength is binding on the Bench of the smaller strength, irrespective of the fact whether the judgment by the Bench of the larger strength is apriori or posterior, in point of time.

(d) A Bench of the smaller strength cannot mark a departure from the decision of the Bench of larger strength, so as to vary the ratio of the Bench of larger strength, in guise of explaining the decision of the larger Bench.

(e) It was not permissible for the two- Judge Bench in Suhas H. Pophale to interpret the statutes and lay down propositions in conflict with what was laid down by the Constitution Bench in Ashoka Marketing and by a three-

Judge Bench in M/s. Jain Ink, when the set of material facts in the background of the controversy dealt with, were similar.

(f) In laying down the propositions incongruent to and contrary to the law laid down in Ashoka Marketing, the Bench in Suhas H. Pophale disregarded the principle of stare decisis and violated the well settled law of precedent.

13. As a sequitur, this Court reiterates the propositions of law laid in Ashoka Marketing

(i) Both categories of statutes namely, the PP Act, 1971 on one hand, and the Bombay Rent Control Act, 1947, Maharashtra Rent Control Act, 1999, Delhi Rent Control Act, 1958 and similar Rent Control Legislations, on the other hand, are special laws. Therefore, in order to determine as to which Act will apply in case of conflict, reference has to be made to the purpose and policy underlying the two enactments and the clear intendment conveyed by the language of the relevant provisions therein. Keeping in view the object and purpose underlying both the enactments, that is, the PP Act, 1971 and the Rent Control Acts, the provisions of the PP Act, 1971 shall override the provisions in the Rent Control Legislations.

(ii) The PP Act, 1971 and the State Rent Control Acts are special enactments in themselves. Rule generalia specialibus non derogant will not apply. Having regard to the purpose, policy and legislative intent of the PP Act, 1971, the same would prevail over the State Rent Control Acts in respect of eviction of 'unauthorised occupants' of 'public premises' as defined in Section 2(g) of the Act.

(iii) ***The provisions of PP Act, 1971, to the extent they cover the premises falling within the ambit of Rent Control Act, override the provisions of the Rent Control Act.***

(iv) A person in unauthorised occupation of 'Public Premises' under Section 2(e) of the Act cannot invoke the protection of the Rent Control Act.

(v) In cases where the tenanted premises are claimed to be governed by the State Rent Control Act and the same have also become 'Public Premises' within the meaning in Section 2(e) of the PP Act 1971, for their unauthorised occupation, the PP Act, 1971 will have the application.

(vi) The statutory machinery envisaged under the PP Act, 1971, could be activated for recovery of possession of public premises by any Government or public entity mentioned in the definition.

(vii) ***The PP Act, 1971 will apply to the tenancies which may have been created and in existence either before coming into force of the Act or which may have been created subsequent to coming into the force of the Act.***

(viii) Two conditions must be satisfied for the applicability as above. Firstly, the tenanted premises must fall within the purview of definition under Section 2(e) of the PP Act 1971. Secondly, the premises should have been in unauthorised occupation.

(ix) Termination of tenancy of 'Pubic Premises' by issuing notice under Section 106 of the Transfer of Property Act, 1882 is one of the modes which would render the occupation of the tenant unauthorised, post the date specified in such notice. This would hold true in respect of tenancies created before or after coming into force of the PP Act 1971.

(x) Invocation and applicability of the provisions of the PP Act 1971 is not dependent upon the aspect of possession. What is material is the occupation of the premises which has become unauthorised occupation. The occupation is a continuous concept.

(xi) The propositions enunciated in Suhas H. Pophale, as noticed in paragraph 3.3.6 of this judgment, do not, in our considered view, state the correct position of law. The observations made therein, with great respect, are not in consonance with the settled legal principles and runs contrary to the principle of stare decisis and stand overruled to that extent.

9. The Supreme Court in ***Vita*** (supra) has specifically observed that provisions of Public Premises Act, 1971 to the extent that they cover the premises following within the ambit the Rent Control Act would override the provisions of Rent Control Act. It is further held that the person in unauthorized occupation of Public Premises under Section 2(e) of the Act cannot invoke the protection of the Rent Control Act.

10. The pleadings in plaint would itself indicate that the subject premises are 'Public Premises' and falls within the definition of Section 2(e)(2)(iii). In view of the categorical declaration of law by the Supreme Court in the case of ***Vita*** (supra), the suit filed for the relief claimed under Rent Control Act, is not maintainable, in view of bar under Section 15 of the Public Premises Act, 1971. The bar is applicable to the premises let out even prior to enactment of Act of 1971 and earlier covered under the protection of Rent Control Act. The R.A.D. Suit No. 660 of 2012 before the Small Causes Court is accordingly **Rejected** and Civil Revision Application stands **allowed.**

[ARUN R. PEDNEKER, J.]

After pronouncement of judgment, at the request of learned counsel appearing for the Respondent, the order shall not be implemented for a period of Six weeks.

[ARUN R. PEDNEKER, J.]