

**MUMBAI PORT AUTHORITY**  
**OFFICE OF THE ESTATE OFFICER**  
**UNDER PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**  
The Estate Officer, 7<sup>th</sup> Floor, Vijay deep bldg., S. V. Marg, Ballard Estate, Mumbai – 400 001.  
Case No. EO/QV (02) Of 2024

Case No. EO/QV (02) of 2024

**IN THE MATTER OF:**

**The Board of Mumbai Port Authority**

A Statutory Corporation, Successor in title  
Of the Board of Trustees of the port of Mumbai  
Having its registered office at Vijay Deep, Shoorji Vallabhdas Marg,  
Fort, Mumbai – 400 001.

.....Petitioners

V.

**Shri. Bijoy B. Das**

Ex-Ward Officer,  
Mechanical and Electric Engineering Department,  
Flat No. 10, Kayakalp, Nadkarni Park,  
Wadala (E) Mumbai-400037

....Respondent

**Coram: Shri R.J. Sawant**  
(Estate Officer)

*(Appointed under Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act,  
1971 vide Gazette Notification dated 13.09.2021.*

**Represented by:**

**Petitioner's Representative:** Smt. Vaishali Zade, Sr. Assistant, Welfare Division.

**Respondent:** Shri. Bijoy B. Das

**ORDER**

1. The Petitioner is a Statutory Corporation, constituted under Section 3 of the Major Port Authorities Act, 2021 being the successor in title to the Board of Trustees of the Port of Mumbai, constituted under the Major Port Trust Act, 1963 since repealed, having its office at the above-mentioned address.
2. By way of present order, I am going to decide the eviction Petition filed by the Petitioners under Section 3B, 5 and 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as 'PPE Act').
3. Perusal of the record reveals that the present Petition was initially filed on 23.10.2024 wherein it was prayed as following:-
  - a) *The Eviction of the Respondent from the disputed residence and all person concerned through the Respondent and delivery of vacant and peaceful possession to any the Authorized Officer of the Petitioner.*
  - b) *Payment of penal rent/damages/compensation etc. from 01.04.2023 till vacation of residence as per Regulations already in force.*
  - c) *Costs of the Proceedings.**Any other relief or reliefs the Honorable Estate Officer may deem fit and proper in Description of the case.*



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Therefore, in light of the above prayers, the Petitioner is before this authority for initiating the eviction proceedings against the Respondent under Sections 3B, 5 and 7 of the PPE Act. Further, it is submitted by the Petitioners that the Residential Quarters has thus been illegally/Unauthorisedly occupied by the Respondent. Termination of allotment of quarter with regard to the Flat No. 10, Kayakalp, Group 'B' type of officer's Qrts., Wadala (E) Mumbai-400037 (hereinafter referred to as 'said premises') which was given by the Petitioners' predecessor in title, the Trustees of the Port of Mumbai to the Respondents as residential quarters inter alia claiming an amount of Rs.1,51,579 ps as total rent/damages/compensation.

4. This forum of Law formed its opinion to proceed under the relevant provisions of the Act and issued Show Cause Notices under Sections 3B & 7 and Form L of the Act dated 04.11.2024 and same was served to Respondent by way of Personal Service on 04.11.2024 as per the Rules made under the Act. The issuance of show cause notice was done as per the statutory mandate.
5. From the perusal of the pleadings and documents the case of Petitioner may be summarised as under:
  - i. Shri. Bijoy B. Das retired from the service of MbPA as Ward Officer, MM Division on 01.10.2022 and he was permitted to retain quarter i.e Flat No. 10, Kayakalp for a period of 6 months from 01.10.2022 to 31.03.2023.
  - ii. Shri. Bijoy B. Das further requested for retention of quarters for 6 months from 01.04.2023 to 30.09.2023 which was considered as the flat booked by him was under construction.
  - iii. Thereafter, Shri Bijoy B. Das made further request for retention of quarter for period of 6 months from 01.10.2023 to 31.03.2024, which was rejected due to waiting list at kayakalp, Nadkarni Park.
  - iv. Shri. Bijoy B. Das has retained the quarters from 1.10.2023 without permission Therefore, Mr. Das vide letter dated 10.10.2023, was intimated to vacate the quarters but he failed to vacate the said premises. Thereafter, MbPA issued further letters dated 05.12.2023, 14.03.2024 and 29.04.2024 to vacate the said premises subsequently.
  - v. MbPA vide cancellation of allotment notice dated 22.05.2024 with approval of Dy. Chairman, MBPA directed Mr. Das to vacate the quarters within 30 days from receiving the notice dated 22.05.2024.
  - vi. Shri. Bijoy B. Das vide his e-mail dated 01.07.2024 requested for retention of quarters till 31.12.2024. However, his appeal was rejected vide chairman, MBPA order dated 12.07.2024. Thus the Respondent Shri. Das is in unauthorized occupation of the premises, as described above.
  - vii. List of Documents was filed by the Petitioners on 23.10.2024 along with the petition are as follow:-

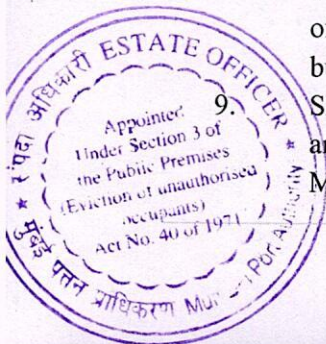


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Item No.	Particulars	Exhibit No.
1.	Copy of letter No. MEED/MMD/E/BBD/2022/317 Dated 17.05.2022.	A
2.	Copy of conveying permission for retention of residential quarters i.e. 10 kayakalp letter No. GAD-WD/Kayakalp/A/1270 dated 18.08.2022.	B
3.	Copy of further retention of quarters intimated vide letter No. GAD-WD/!/Retention /Kayakalp/5985 dated 27.03.2023.	C
4.	Copy of letter No. GAD-WD/OQ/1614 dated 10.10.2023.	D
5.	Copy of letter No. GAD-WD/OQ/1951 dated 05.12.2023.	E
6.	Copy of letter No. GAD-WD/OQ(misc.)/2611 dated 14.03.2024.	F
7.	Copy of letter No. CE.Q/1-23/214 dated 08.04.2024.	G
8.	Copy of Chairman approval dated 16.04.2024 to issue cancellation notice.	H
9.	Copy of letter No. GAD-WD/OQ (misc.)/176 dated 29.04.2024.	I
10.	Copy of cancellation notice dated 22.05.2024	J
11.	Copy of receipt of cancellation notice dated 25.05.2024.	K
12.	Copy indicating pasting of cancellation notice dated 25.05.2024.	L
13.	Copy of Chairman's approval dated 12.07.2024 to forward the case for Eviction.	M

6. On 23.10.2024 Petitioners have filed the present PPE proceedings against Shri. Bijoy B. Das wherein he had to show cause before Estate officer as to why he should not be vacated from the quarters. Shri. Bijoy B. Das has appeared before Estate officer on 12.11.2024 citing that he is suffering from Tuberculosis and the flat booked by him under construction.
7. On the scheduled date of appearance and filing reply to the Show Cause i.e. on 04.11.2024, it has been observed that Respondent has appeared and submitted that he is suffering from Tuberculosis alongwith other Medical issues and the flat he has booked is under construction and requested to take sympathetic view.
8. On 18.11.2024 Respondent filed the reply to the Show cause Notice wherein it was contended that he has purchased a flat under construction at Thane, however it is still not delivered to him till date and further stated that he is suffering from Tuberculosis alongwith other Medical issues. He further requested to allow him to retain the occupation of the quarters till 30.06.2025 and meanwhile he will secure occupation certificate from builder.
9. Shri. Das had paid Rs. 6,00,000/- by Cheques Nos. 592722 and 592723 dated 18.11.2024 and 21.11.2024 respectively of Rs. 3 Lakhs each, and that the amount has been credited to MbPA Revenue Account. This has been brought on record by the petitioner by producing



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the letter dated 22.11.2024 issued by Accounts Officer GR-I (E). Thus according to petitioner now the amount due to be recovered is Rs. 1,51,579/- against the period from 01.08.2022 to 22.11.2024.

10. Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of both the parties. After due consideration of those submissions/arguments, following points arise for decision on which I record my findings as under for the reasons to follow:

Sr.No.	Points for determination	My findings
I.	Whether Respondents is unauthorized occupants of the Petition premises and liable to be evicted from the suit premises?	In affirmative
II.	Whether Respondents are liable to pay damages/compensation as claimed by the Petitioners? If so, at what rate and what rate of interest?	In affirmative & rates and rules of interest as described herein below

11. with regards to Point for consideration No. 1, Petitioners have produced the necessary documents in their Petition to support their claim *viz.* Cancellation of allotment of Quarters Notice dated 22.05.2024 terminated the occupancy of the Respondent (**duly taken on record as item No. 10 of petition**) inter alia terminating retention of quarters which had been granted to the Respondents was terminated and the Respondent has become unauthorised occupant. However, taking into consideration the settled proposition of law, it is stated that the Respondent in the present case cannot claim any legal right after termination of retention of Quarters. Furthermore, the Respondent has failed to satisfy this Authority about any consent on the part of the Petitioners in occupying the public premises after termination of retention of Quarters. Hence, Point No. I is proved.

12. As regard to Point for consideration No. II Petitioner issued statement of Rent, Water charges & Electricity charges dated 22.11.2024 where the Respondent was informed he was in gross arrears amounting to Rs. 1,51,579 ps (.One Lakh Fifty One Thousand Five Hundred Seventy Nine rupees only) upto 22.11.2024. During the course of hearing, the Petitioners not only confirmed their claim on account of damages but also asserted their right to claim interest for delayed payment. Considering the evidence produced before me on record the Petitioners has a definite legitimate claim and the Respondent cannot claim continuance of its occupation. The charges claimed on account of rent/damages is on the basis of the Trustees Resolution of the Petitioners as applicable for all the occupiers' tenants/ of the premises in a similarly placed situation. Therefore, I hold point Nos. 2 is proved and the due charges and interest thereon as included in the claim is also proved.

Due to continuance of retention of quarters unlawfully, Petitioners left with no other remedy but to initiate PPE Proceedings against the Respondent.

Hence, I hold Points for consideration No.1 and 2, are hereby proved for above reasons.

13. For the above reasons I pass following order:-

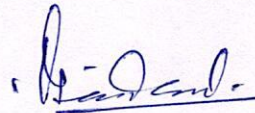


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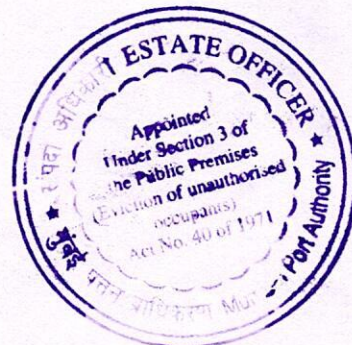
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- a. After the termination of retention of quarters/holding over of residential quarters the Respondent did not handover the vacant and peaceful possession of the Petition premises to the Petitioners hence the status of Respondent with regard to said premises became that of an 'unauthorized occupant' in terms of Section 2 (fa) and (g) of the PPE Act. The same is reproduced here for the sake of reference-
- (fa) "residential accommodation occupation" in relation to any public premises means occupation by any person on grant of licence to him to occupy such premises on the basis of an order of allotment for a fixed tenure or for a period he holds office, in accordance with the rules and instructions issued in this regard, made under the authority of the Central Government, a State Government, a Union territory Administration or a statutory authority, as the case may be;*
- Section 2 (g)- "Unauthorized occupation, in relation to any premises, means the occupation of any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises as expired or has been determined for any reason whatsoever."*
- b. Upon perusal of the Petition, Respondent reply to show cause Notice dated 18.11.2024 and documents submitted on record, it is observed that the Petitioners validly and lawfully terminated the Retention of Quarters of Respondent. In the circumstances, being satisfied as above, I, therefore, declare that the Respondent is in unauthorized occupation of the premises and pass orders for payment of arrears of compensation, taxes, and other charges under section 7(1) (2) (2A) of the 1971 Act against the Respondents and I also hereby pass an order under section 5(1) of the PPE Act, 1971 for eviction from the said premises. Accordingly, orders in **Form 'B', and Form 'G'** are issued.
- c. Upon perusal of the evidence, I have assessed the Petitioners Statement of Damages/statement of arrears adduced with this order as rent/damages/compensation pay the sum of Rs. 1,51,579 ps (.One Lakh Fifty One Thousand Five Hundred Seventy Nine rupees only) which are due for the period from 01.08.2022 to 22.11.2024.

Place: Mumbai  
Date: 25.11.2024



(R.J. Sawant)  
**ESTATE OFFICER**



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**Case No. EO/QV (02) Of 2024**

**Form B**

*Order under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971*

**Case No. EO/QV (01) of 2024**

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....Respondent

**ORDER**

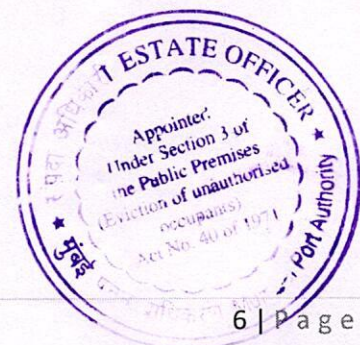
WHEREAS, I, the undersigned am satisfied for the reasons recorded hereinabove that the Respondent, is in unauthorized occupation of Public Premises specified in the Schedule below and have failed to hand over vacant and peaceful possession despite termination of retention of Residential Accommodation.

**REASON**

Upon perusal of the Petition, documents on record and heard the argument of both parties, it is, *prima facie*, observed that:

1. The Residential Accommodation to the Respondent was terminated for the reason of Unauthorised Occupation and non -payment of dues vide cancellation of quarters notice dated 22.05.2024. Hence, the Respondent are unauthorized occupants in the said premises.

NOW, THEREFORE, in exercise of the powers conferred on me under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order Respondent and others who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above, the Respondent and all other concerned are liable to be evicted from the said premises, if need, by the use of such force as may be necessary.



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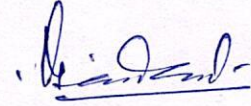
**SCHEDULE**

**Description of the Premises**

Flat No. 10, Kayakalp, Group 'B' type of Officers Qtrs.Wadala (E), Mumbai-400037

**Place: Mumbai**

**Date: 25.11.2024**



(R.J. Sawant)

**ESTATE OFFICER**

Signature & Seal of the Estate Officer



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**Form G**

*Order under sub-sections (2) and (2-A) of Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971*

**Case No. EO/E/ 08 of 2023**

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Ex-Ward Officer,

Mechanical and Electric Engineering Department,

Flat No. 10, Kayakalp, Nadkarni Park,

Wadala (E) Mumbai-400037

....Respondent

**ORDER**

WHEREAS I, the undersigned am satisfied that you the Respondent are unauthorized occupatio of the Public Premises in the **Schedule** below.

AND WHEREAS, by written notice dated 04.11.2024 you were called up on to show cause on within seven working days, why an order requiring you to pay total **damages** for wrongful use and occupation of the premises from 01.08.2022 to 22.11.2024 with interest as on 22.11.2024 (latest to be incorporated) amounting to Rs. 1,51,579 ps (.One Lakh Fifty One Thousand Five Hundred Seventy Nine rupees only) should not be made;

AND WHEREAS, you have not made any objections or produced any evidence before the said date;

NOW, THEREFORE, in the exercise of the powers conferred on me by sub-section 2 of Section (7) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order you to pay the sum Rs. 1,51,579 ps (.One Lakh Fifty One Thousand Five Hundred Seventy Nine rupees only) assessed by me as rent/water charges/electricity charges/damages/compensation on account of your unauthorized occupation of the premises.

In the event of your refusal or failure to pay the total sum including rent/ water charges/electricity charges/damages and compensation arrears as Rs. 1,51,579 ps (.One Lakh Fifty One Thousand Five Hundred Seventy Nine rupees only) or any instalments thereof within the said period or in the manner aforesaid, the amount will be recovered as arrears of land revenue.



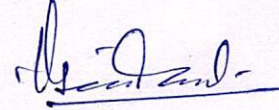
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**SCHEDULE**

**Description of the Premises**

Flat No. 10, Kayakalp, Group 'B' type of Officers Qtrs.Wadala (E), Mumbai-400037

Place: Mumbai  
Date: 25.11.2024



(R.J.Sawant)

**ESTATE OFFICER**

Signature & Seal of the Estate Officer.

