IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2271 OF 2014

Munjee Nathoobhoy & Company Pvt. Ltd. ***...Petitioner***

: Versus :

1. Reserve Bank of India ***...Respondents***
2. The Estate Officer, Reserve Bank of India

WITH

WRIT PETITION NO. 2272 OF 2014

Reunion Private Limited ***...Petitioner***

: Versus :

1. Reserve Bank of India ***...Respondents***
2. The Estate Officer, Reserve Bank of India

WITH

WRIT PETITION NO. 2273 OF 2014

Reunion Engineering Company Private Limited ***...Petitioner***

: Versus :

1. Reserve Bank of India
2. The Estate Officer, Reserve Bank of India ***....Respondents***

Mr. P.S. Colabawala with Mr. Samkit Shah and Mr. Farhad Vakil i/b Mulla & Mulla & Craigie Blunt & Caroe, for the Petitioners.

Mr. Virendra Tulzapurkar, Senior Advocate with Mr. Parag Sharma, Ms. Aditi Pathak, Ms. Megha More, Ms. Twinkle Kalla and Ms. Juhi Bhayani i/b BLAC Co., for Respondents.

CORAM: SANDEEP V. MARNE, J.

JUDGMENT RESD. ON : 7 OCTOBER 2026.

JUDGMENT PRON. ON : 26 OCTOBER 2026

JUDGMENT:

1) These Petitions are filed challenging the judgments and orders dated 23 January 2014 passed by the Principal Judge, City Civil Court at Bombay in Misc. Appeal Nos. 52 of 2013, 53 of 2013 and 54 of 2013. The learned Principal Judge has dismissed the Appeals preferred by the Petitioners and has confirmed the order of eviction dated 15 April 2013 passed by the Estate Officer under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 **(Public Premises Act)** directing eviction of the Petitioners from the public premises.

2) Brief facts of the case are that 'Amar Building' was constructed at P.M. Road, Fort, Mumbai-400 001 in the year 1930. M/s. Munjee Nathoobhoy & Co. was inducted as a tenant in respect of the

premises located in a portion on the fourth floor of Amar Building. Later, a company named M/s. Reunion Pvt. Ltd. was incorporated and the same started occupying the premises. RBI purchased Amar Building and acquired its ownership sometime in the year 1947. In the year 1949, Petitioner-M/s. Munjee Nathoobhoy & Company (India) Pvt. Ltd. took over as a going concern of the Firm- M/s. Munjee Nathoobhoy & Co. M/s. Reunion Engineering Co. Pvt. Ltd. is another group company and this is how the three group companies started occupying the premises in Amar Building. RBI was nationalized in the year 1949.

3) In the year 1959, RBI initiated proceedings against M/s. Munjee Nathoobhoy & Company (India) Pvt. Ltd., M/s. Reunion Pvt. Ltd. and M/s. Reunion Engineering Co. Pvt. Ltd. (**Reunion Group**) under the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 **(Bombay Rent Act)** in the Small Causes Court at Mumbai. On 12 January 1961, consent terms were entered into between the RBI and Reunion Group, under which the Reunion Group companies surrendered certain portion of the premises in their occupation and continued to occupy the balance portion. RBI agreed not to institute any suit for eviction under section 13(1)(g) of the Bombay Rent Act on bonafide requirement ground and the Reunion group agreed to find alternate accommodation. However, it appears that Petitioners continued to occupy the premises and did not find alternate premises.

4) On 17 July 2009, RBI issued termination notice terminating the tenancy of M/s. Munjee Nathoobhoy & Co. On 22 July 2009, notice

was responded to and the termination was disputed. RBI filed application before the Estate Officer seeking eviction of the Reunion Group under the provisions of the Public Premises Act by referring to the security reports dated 28 February 2002 and 20 January 2005. On 16 September 2009, an opinion was formed by the Estate Officer based on the two security reports to the effect that RBI required the premises for its bonafide use.

5) RBI issued notices to the three Reunion Group companies (*Petitioners)* under the Public Premises Act on the ground of security threats and bonafide requirements of RBI. Petitioners filed their respective replies on 24 November 2009. On 5 August 2011, Application was filed by RBI for withdrawal of eviction proceedings initiated against M/s. Reunion Engineering Co. Pvt. Ltd and M/s. Reunion Pvt. Ltd and the same was allowed 13 October 2011. Thereafter, notices for termination were issued by RBI to M/s. Reunion Engineering Pvt. Ltd and M/s. Reunion Pvt. Ltd on 28 November 2011, which were disputed by the noticees. RBI pressed for eviction of those two companies under the Public Premises Act. The Estate Officer passed order dated 18 November 2011 allowing the security reports to be marked in evidence and rejecting the objections raised by the Petitioners. Parties led evidence in support of their respective pleas. On 15 April 2013, the Estate Officer passed orders for eviction of all the three Petitioners from the public premises under Section 5(1) of the Public Premises Act.

6) Petitioners filed Appeals before the City Civil Court challenging the orders of eviction. By separate judgments and orders dated 23 January 2014, the learned Principal Judge of the City Civil Court has dismissed the Appeals preferred by the Petitioners. Aggrieved by judgments and orders dated 23 January 2014 passed by the City Civil Court in Misc. Appeal Nos. 52 of 2013, 53 of 2013 and 54 of 2013, Petitioners have filed the present Petitions. By order dated 6 March 2014, this Court has granted interim stay on eviction order in favour of the Petitioners.

7) Mr. Colabawala, the learned counsel appearing for the Petitioners submits that the learned Judge has grossly erred in dismissing the Appeals preferred by the Petitioners and confirming the eviction orders. That the impugned eviction orders are premised entirely on an opinion formed by the Estate Officer on the basis of two security reports of 2002 and 2005. At that time, there was no material to record an opinion that RBI required premises for its own bonafide use. That the security reports of 28 February 2002 and 20 January 2005 were made by external agencies and RBI did not have its own security assessment. That the security reports were submitted in 2002 and 2005, whereas the opinion was formed thereafter in the year 2009. Since the opinion formed on the basis of stale security reports of 2002 and 2005 is itself erroneous, the show-cause notice dated 22 September 2009 premised thereon is also rendered void. That if foundation for seeking eviction itself is baseless, the eviction order has to be set aside. In support, he relies on judgment of this Court in ***Mine Manager, Manganese Ore***

(India) Ltd. Versus. Shyam s/o. Kunjilal Yadav[1]. That the Estate Officer, as well as the learned Judge have not decided the issue of the flaw in the show cause notice and the said point has remained undecided.

8) Mr. Colabawala further submits that the Estate Officer has grossly erred in relying on the security reports without examining its authors. That the objections raised to admissibility of security reports in evidence are ignored by the Estate Officer and the same are erroneously marked for being read in evidence. That RBI did not even disclose as to the exact persons who made the concerned security reports. That since security reports are wholly inadmissible in evidence, the impugned eviction orders premised squarely on the security reports will have to be necessarily set aside. He submits that the learned Judge of the City Civil Court has erroneously upheld the action of the Estate Officer by relying on the security reports erroneously marked in evidence. That Petitioners did not cross-examine RBI's witness on the security reports. That the learned Judge has totally misread the evidence for recording a finding about Petitioners examining RBI's witness on the security report. He relies on judgment of the Apex Court in ***Sait Tarajee Khimchand & Ors. Versus. Yelamarti Satyam alias Satteya & Ors.***[2] in support of his contention that mere marking of a document does not mean that the same can be read in evidence in absence of proof thereof. He submits that the learned Judge has erroneously relied on the aspect of non-applicability of provisions of Indian Evidence Act, 1872 for upholding the directions of the Estate Officer for admitting the security reports in

1 2002 SCC Onlline Bom 518
2 (1972) 4 SCC 562

evidence. He relies on judgment of the Apex Court in ***M/s. Bareilly Electricity Supply Co. Ltd. Versus. The Workmen & Ors.***[3] in support of his contention that even if Indian Evidence Act, 1872 does not apply to quasi-judicial proceedings, the principles of natural justice would still continue to apply. He relies on judgment of the Division Bench of this Court in ***Nandini J. Shah & anr. Versus. Life Insurance Corporation of India & Ors.***[4] in support of his contention that the primary onus lies on the RBI to establish its claim by leading documentary and oral evidence.

9) Mr. Colabawala further submits that when Petitioners highlighted impermissibility to rely upon stale security reports, RBI produced the third security report of 2010. He submits that RBI selectively relied upon security reports for ensuring eviction of the Petitioners. Without reiterating the various recommendations contained in the security reports, he takes me through the testimonies of the witnesses to demonstrate that most of the recommendations in the said reports remained unimplemented. He submits that the security reports were deliberately procured solely with the aim of ensuring eviction of the Petitioners. He takes me through the evidence recorded by the Estate Officer in support of his plea that what is sought to be projected under the security reports is mere general risk and that no steps were taken by RBI to implement various suggestions made in the security reports. He submits that since RBI is an instrumentality of State, it cannot act arbitrarily. That there has to be a valid reason for seeking eviction of the occupant under the Public Premises Act. He relies on judgment of the

3 1971 (2) SCC 617
4 2008(4) Mh.L.J. 106

Apex Court in ***Jiwan Dass Versus. Life Insurance Corporation of India & Anr.***[5] in support of his contention that there has to be a valid reason and such reason has to be specified for terminating the tenancy under Section 106 of the Transfer of Property Act, 1882.

10) Mr. Colabawala relies on the guidelines published by the Government of India on 30 May 2002 in support of his contention that eviction action cannot be initiated with the commercial motive or for securing vacant possession of the premises in order to accommodate its own staff. That the guidelines provide that occupation of the premises could not be treated as unauthorised merely upon service of a notice of termination; rather, the question of unauthorised occupation had to be determined by following due process of law. He submits that the guidelines do not have binding effect and need to be necessarily followed. That the Apex Court has held in ***Banatwala & Co., Versus. Life Insurance Corporation of India & Anr.***[6] that the guidelines dated 30 May 2002 are required to be followed and that they expressly recognise the relevance of certain provisions of the Rent Control Act to properties covered under the Public Premises Act. In support of his contention that security aspect does not fall outside court's power of judicial review, he relies on a judgment of this Court in ***Tirandaz Subha Niketan CHSL & Ors. Versus. Union of India & Ors.***[7]. He submits that the Courts need not blindly accept the security perception projected before it and can go into the validity of the perception of real threat.

5 1994 Supp (3) SCC 694
6 (2011) 13 SCC 446
7 WP No. 3013-2018 decided on 27.2.2019

11) Mr. Colabawala further submits that so far as the ground of bonafide requirement is concerned, no material is produced. That there was specific agreement between the parties under the Consent Terms that eviction of Petitioner was not to be sought on the ground of bonafide requirement. That RBI's witness also admitted that bonafide requirement was not a ground available for eviction. He accordingly prays for setting aside of the impugned orders.

12) Dr. Tulzapurkar the learned Senior Advocate appearing for the Respondents opposes the petitions submitting that the Petitioners have suffered two concurrent findings recorded by the Estate Officer and the learned Principal Judge. That factual findings are recorded concurrently regarding the security threat as well as the bonafide requirement. That this Court cannot re-appreciate the evidence in exercise of extraordinary jurisdiction under Article 227 of Constitution of India. That the Petition is argued as if it is an appeal in disguise. That there is due application of mind to all the factors both by the Estate Officer as well as by the Appellate Court. That therefore no ground is made out by the Petitioner to interfere in the findings recorded by the Estate Officer and by the Appeal Court.

13) Dr. Tulzapurkar further submits that the Petitioner cannot question RBI's perception of security. That once security threat is perceived by the RBI, it is justified in terminating the tenancy. He submits that the guidelines relied upon by the Petitioner do not have statutory force. That, in any case, the guidelines prevented State

instrumentalities from seeking eviction for commercial motives or for the purpose of making the premises available to their own employees. That in this case, the Petitioner does not have any commercial motive. RBI is not proposing to rent out the premises after recovering possession thereof from the Petitioners.

14) Dr. Tulzapurkar further submits that the Respondent need not even establish any ground for eviction since rent control protection is withdrawn by virtue of declaration of law by the Apex Court in the judgment in ***Life Insurance Corporation of India & Anr. Versus. Vita***[8]. That tenancy can be terminated by issuance of notice under Section 106 of the Transfer of Property Act,1882. That the moment the tenancy is terminated, occupation automatically becomes unauthorised. In support of his contention that bonafide requirement need not be established nor any ground needs to be demonstrated for seeking eviction of unauthorised occupant, Dr. Tulzapurkar relies on judgment of this Court in ***Bank of Maharashtra Versus. Mrs. Gunwanti Kashinath Zarkar & Ors.***[9] He prays for dismissal of the Petition.

15) Rival contentions of the parties now fall for my consideration.

16) Petitioners are aggrieved by dismissal of Appeals filed by them before the learned Principal Judge of the City Civil Court in which they had challenged the orders dated 15 April 2013 passed by the Estate

8 Civil Appeal No.(s). 2638 of 2023 dated 11.12.2025
9 WP-10765/2012 decided on 16 September 2026.

Officer under Section 5(1) of the Public Premises Act. By those orders, Petitioners have been directed to handover possession of the premises in their occupation. As observed above, Petitioners are group companies of Reunion Group. The premises were occupied initially by M/s. Munjee Nathoobhoy & Co. since the year 1930 long before RBI arrived at the scene. RBI purchased the building in the year 1947. M/s. Munjee Nathoobhoy & Co. was taken over as a going concern by M/s. Munjee Nathoobhoy & Co. (India) Pvt. Ltd. (*Petitioner in WP No. 2271 of 2014).* The other two Petitioners are part of the same group and all the three Petitioners occupy the premises as Reunion Group Companies.

17) Earlier RBI had sought eviction of the Petitioners under Section 13(1)(g) of the Bombay Rent Act by filing Suit No. 766 of 4261 of 1959. Consent Terms were tendered in the said suit on 12 January 1961 under which Petitioners surrendered some portion of the premises to the RBI. Reciprocal promises were made by RBI and the Petitioners under which RBI agreed not to seek eviction of the Petitioners on the ground of bonafide requirement under the provisions of Section 13(1)(g) of the Bombay Rent Act and Petitioners agreed to make an endeavour to find alternate premises. It appears that Petitioners did not act on their promise and continued to occupy the premises for the next 48 long years when RBI was required to terminate the tenancy. After issuance of notices for termination of tenancy under Section 106 of the Transfer of Property Act, 1882, eviction proceedings were initiated against the Petitioners before the Estate Officer. It appears that, on 16 September 2009, the RBI filed an application before the Estate Officer, contending

that there was a security threat to the RBI and that the presence of the Petitioners on the Bank's premises increased its exposure and vulnerability to terrorist attacks. The Petitioners' presence in the premises was identified as a security threat. RBI relied on reports of Intelligence Bureau (Ministry of Home Affairs) dated 28 February 2002 and of Additional Commissioner of Police, Mumbai dated 20 January 2005, both recommending *inter-alia* removal of non-RBI entities from Amar Building. The Bank also stated that it had bonafide requirement in respect of the premises in possession of the Petitioners.

18) On the basis of application made by RBI, it appears that the Estate Officer formed an opinion on 16 September 2009 that it was necessary to adopt proceedings under the Public Premises Act by issuance of show cause notice for eviction of the Petitioners. Accordingly, the Estate Officer issued show cause notice dated 22 September 2009 under Section 4 of the Public Premises Act.

19) According to the Petitioners, issuance of show cause notice was itself faulty and the same was premised entirely on the opinion dated 16 September 2009, which in turn was based only on the security reports dated 28 February 2002 and 20 January 2005. Petitioners believe that the reports of 2002 and 2005 could not have been the basis for formation of opinion in the year 2009 for issuance of show cause notice by the Estate Officer. It is therefore sought to be contended that the very foundation for issuance of show cause notice was faulty. I am unable to agree. There is no separate step/stage provided for in the Public Premises

Act of 'formation of opinion' by the Estate Officer. Under Section 4 of the Act, the Estate Officer can issues show cause notice if he has 'information' that a person is in unauthorised occupation of public premises and that he should be evicted. Thus, before issuance of show cause notice, the Estate Officer is not required to 'record satisfaction' on the basis of any material that a person is in unauthorised occupation of the public premises. He is empowered to act merely on 'information'. Section 4 of the Public Premises Act provided thus:

> **4. Issue of notice to show cause against order of eviction.—**
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> (1) If the estate officer has information that any person is in unauthorised occupation of any public premises and that he should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing within seven working days from the date of receipt of the information regarding the unauthorised occupation calling upon the person concerned to show cause why an order of eviction should not be made.
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> (1A)If the estate officer knows or has reasons to believe that any person is in unauthorised occupation of the public premises, then, without prejudice to the provisions of sub-section (1), he shall forthwith issue a notice in writing calling upon the person concerned to show cause why an order of eviction should not be made.(1B)Any delay in issuing a notice referred to in sub-sections (1) and (1A) shall not vitiate the proceedings under this Act.
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> (2)The notice shall—(a)specify the grounds on which the order of eviction is proposed to be made; and(b)require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises,—(i)to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not later than seven days from the date of issue thereof, and(ii)to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.
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> (3)The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.* * * *

20) Thus it was not even necessary for the Estate Officer to record an opinion in writing before issuance of show cause notice nor correctness of that opinion can be questioned in appeal filed against eviction order. What can be challenged is only the findings recorded in the final eviction order.

21) I therefore do not find that the very premise on which the show cause notice was issued was faulty as sought to be suggested by the Petitioners. Mr. Colabawala's reliance on the judgment of this Court in ***Mine Manager, Manganese Ore (India) Pvt. Ltd.*** is also inapposite. In that case, the foundation for initiating eviction proceedings was the cessation of the Respondent's service, which was found to be incorrect, as it was ultimately established that the Respondent had never been in service of the establishment. Since the basis for issuing the show-cause notice was held to be erroneous, the eviction order was set aside. This Court held in Para 7 of the judgment thus:

> 7. Having said this, it is equally clear to my mind from a **perusal of the notice to show cause that was issued under the Act, that the entire basis of the proceeding was that the respondent had ceased to be in the employment of the appellant 25 years ago and was therefore in unauthorised occupation. The respondent denied that he was at any time in the service of the undertaking or that his father was at any time employed with the appellant or its predecessor. Now it is a common ground between the parties that neither the respondent, his father nor any member of the family has been in the service either of the appellant or the predecessor in interest of the appellant. Therefore, the basis of the show cause notice which was that the respondent was in unauthorised occupation, after the period of his service had come to an end, is completely flawed. The proceedings before the Estate Officer ought to have been quashed on this limited ground.** Once it is an accepted position that neither the respondent nor his predecessor was an employee of the appellant or the erstwhile British Company, the basis of eviction proposed in the show cause notice, cannot be sustained. Under the provisions of the Act an order of eviction has to be

> preceded by the notice to show cause which specifies the grounds on the basis of which the Estate Officer determines that the occupant is in unauthorised occupation and as to why he should be evicted. The issuance of a proper notice to show cause is a mandatory requirement of the statute. The show cause notice is fundamentally flawed in the present case and the eviction proceeding, is, therefore liable to be quashed and set aside on the aforesaid ground. In these circumstances, I am of the view that this civil revision application is liable to be dismissed. However, it is expressly clarified that the observations contained in the impugned order in regard to the plea of adverse possession, are overruled and the eviction proceedings are quashed only on the ground that, as stated earlier, the basis and the foundation of the show cause notice issued under section 4(1) of the Act is vitiated. This was a matter of prejudice to the respondent because what he was required to meet was whether he had or had not been in the service of the applicant or the erstwhile British Company and whether upon the expiry of the period of service, he should be regarded as a person in unauthorised occupation. However, while disposing of this civil revision application, it would be appropriate to direct that the applicant would be at liberty to pursue such remedies as are open to it in law for the purpose of securing the possession of the premises in question. All the rights and contentions of the parties are expressly kept open.
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> *(emphasis added)*

22) Thus, in the judgment in ***Mine Manager***, it was found that neither the Respondent therein nor his predecessor was an employee of the Appellant or of the erstwhile British Company and that therefore the basis of eviction proposed in the show cause notice was held to be unsustainable. The basis of loss of employment for initiation of eviction proceedings cannot be compared with the basis of security perception forming the basis for issuance of show cause notice. In the present case, there is no foundational error in issuance of show cause notice for eviction and therefore the judgment in ***Mine Manager*** has no application to the facts of the present case.

23) Also, in the present case, merely passage of some time for seeking eviction of Petitioners on the basis of security reports, does not

mean that the proposal becomes ab-initio void on account of delay. It must be appreciated that the security reports were not confined only to Amar Building or only to occupation of premises by the Petitioner. The Ministry of Home Affairs, Intelligence Bureau, had conducted a security inspection of RBI buildings and submitted its report dated 28 February 2002. A report was provided to RBI in respect of 26 storey New Central Office Building, 3 storey Main Building and 6 storey Amar Building. Various security aspects were highlighted and several recommendations were made in respect of the three buildings. Of the 14 recommendations made by the Intelligence Bureau, the last one directed that the feasibility of shifting non-RBI offices from Amar Building be explored. Thus, shifting of Petitioners from Amar Building was actually one of the several recommendations made by the Intelligence Bureau. While RBI could have immediately proceeded to initiate eviction proceedings against the Petitioners after 28 February 2002, it possibly permitted Petitioners to occupy the premises since the report had recommended exploration of possibility of shifting of new RBI offices at Amar Building. Another report was received by RBI from the office of Addl. Commissioner of Police, Mumbai in respect of its three buildings. In respect of Amar Building, it was once again highlighted that entries to non-RBI offices were not regulated and their visitors could access Amar Building. May be there was error in the report in describing the location of Petitioners' premises on the ground floor when in fact the entire premises are situated on the fourth floor of Amar Building. However, what needs to be borne in mind is the fact that the Additional

Commissioner of Police highlighted security threat on account of visitors of non-RBI offices having access to the entire Amar Building.

24) RBI decided to act on the two reports in the year 2009 and initiated process for eviction of the Petitioners. It cannot be contended that the delay on the part of the RBI in acting on the two security reports would enure to the benefit of the Petitioners in any manner. Such delay enabled the Petitioners to occupy the premises though the process for their eviction could have been initiated in the year 2002 itself. In any case, during pendency of the eviction proceedings, one more security report of 31 July 2010 was prepared by the Protection and Security Branch of RBI again recommending eviction of the Petitioner from Amar Building. It was noted in that report that there were about 650 employees working in non-RBI premises and about 150 visitors were visiting the premises everyday.

25) It appears that apart from the Petitioners, the premises in Amar Building were also in occupation of MTNL, David & Co. etc. Those occupants have already shifted out of Amar Building. Thus, there are as many as 3 security reports which clearly recommended shifting of non-RBI occupants from Amar Building from security perspective. The security aspect needs to be considered from the perception of RBI and not from the perception of the Petitioners. In my view, the Estate Officer was justified in issuing the show cause notice to the Petitioners and the foundation in the show cause notice cannot be treated as erroneous in any manner.

26) Petitioners have also raised objection about admission of the security reports in evidence without examination of their authors. The learned Principal Judge has recorded elaborate reasons to justify Estate Officer's action in marking the security reports in evidence. In this regard findings recorded by the learned Judge in paragraphs 13 to 19 of the judgment are relevant, which read thus:

> 13. In his cross-examination he was asked some questions as to the security reports submitted by other two agencies namely Intelligence Bureau and Mumbai Police who have conducted independent inspection of the said premises. Hence, those two reports are marked exhibits by Estate Officer on the threefold grounds- Firstly as original reports are produced on record. Secondly, the questions were asked about the contents of those reports in cross-examination of Respondent's witness Girdharilal and lastly as provisions of Evidence Act are not strictly applicable to proceedings before him as they are summary in nature.
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> 14. Learned Counsel for the Appellant has however seriously assailed the reasoning of the Estate Officer. According to him, unless the authors of the documents are examined, contents thereof cannot be proved. To substantiate his contentions, he has relied on Sait Tarajee Khimchand & Ors. Yelamati Satyam alias Satteyya & Ors. (1972) 4 SCC 562 wherein it was held that "mere marking of an exhibit does not dispense with the proof of documents".
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> 15. Learned Counsel for the Appellant has also relied on M/s. Bareilly Electricity Supply Co.Ltd. V/s.The Workmen & Ors 1971 (2) SCC 617 and Nandini J.Shah & Anr. V/s. Life Insurance Corporation of India 2008(4) Mh L.J. 106 to submit that though in proceedings under The Public Premises (Eviction of Unauthorised Occupants) Act, the provisions of Indian Evidence Act or the Code of Civil Procedure are not applicable, even then, the Estate Officer is required to hold summary proceedings in the manner which is in consonance with the basic rule of law and the principles of natural justice. Herein the case, according to him, though original security reports are produced on record, the Appellant did not get an opportunity to cross examine the authors of these reports to prove that contents thereof are not true or correct and in that way the

principles of natural justice are not followed by the Estate Officer while relying on these security reports.

16. There may be some substance in the contention of the Learned Counsel for the Appellant that contents of the said report cannot be considered as strictly proved as their authors are not examined, but in my considered opinion, at the same time by production of those documents it is proved on record that R.B.I. has, in addition to its own assessment about perception of threat to the security of the said building, has also got assessed security of the said building from two independent agencies which are authenticate and experts in the field. This fact is brought on record through examination in chief of the witness Shri Girdhari Lal. A specific question was asked to him that whether other than Reserve Bank's Security Department, any other professional agency had made the security study of the R.B.I.'s Security concern? and he has answered 'Yes' Intelligence Bureau of India and Mumbai Police have made study and they had also submitted reports. He has further stated that there is mention about Amar Building Security in the said reports. Thus, the fact is brought on record that it is not only the assessment of RBI itself about perception of threat to the security of Amar Building but it is also backed by reports of two independent agencies like Intelligence Bureau and Mumbai Police.

17. Therefore, even if the contents of these reports are for the sake of argument not taken into consideration being not strictly proved by examining the authors of the documents, it can be held as proved that assessment of the security arrangement of Amar Building was done by two independent agencies in addition to the own security agency of R.B.I. and relying on this assessment, the opinion about perception of threat to the security of R.B.I. was arrived at and on the basis thereof, the eviction proceedings were initiated. Hence, it cannot be said that it is mere whim, fancy or illusory perception of threat projected by the R.B.I. to evict the Non-R.B.I. entities from the said building but that threat perception is also backed by the reports of two independent agencies.

18. This factual aspect is proved independent of proof of those reports. It is not the case of the Appellant also that no such security assessment of Amar Building was done by these two independent agencies. As a matter of fact, cross-examination of Shri Girdhari Lal categorically goes to reveal that several questions were put to him, may be without directly referring to those reports, to bring on record that recommendations made in the security reports were not implemented. Though there is no direct reference to the security reports, the contents thereof were put to this witness indirectly to point out that R.B.I. has not acted on those security reports. Therefore, in any way, it cannot be

said that those security reports were totally alien documents and Estate Officer has committed grave illegality by relying on those security reports. The copies of those security reports were very much made available to the Appellant though they were secret reports. The Appellant was given full opportunity not only to cross-examine the witness Shri Girdhari Lal on those reports but even in the Written Submissions submitted before the Estate Officer contents of those reports were elaborately dealt with by Learned Counsel for the Appellant by pointing out that those reports are flawed as they proceed on assumption that enquiry premises are situate on ground floor. Therefore, in that way, it cannot be said that there is violation of principles of natural justice by the Estate Officer when he relied on those reports, even if in the strict sense they were not proved by examining the authors of those documents.

19. Moreover, the provisions of the Evidence Act and the Code of Civil Procedure are not made strictly applicable to the proceedings before the Estate Officer which are of a summary nature, the very object being to decide such cases expeditiously without being entangled with the technicalities of the proof of the documents and strict evidence as such. What is contemplated, is the observance of principles of natural justice and herein the case principles of natural justice were observed because the Appellant was given the copy of those reports and also sufficient opportunity to cross-examine the witness of the Respondent No.1 on the contents of those reports and then also allowed sufficient opportunity to advance submissions to challenge the contents of those reports and to show how they were not correct and not implemented. The Estate Officer has also dealt with all these aspects in detail. Therefore, there appears no substance in the submission of the Learned Counsel for the Appellant that as these reports were taken into consideration though strictly not proved, there is violation of principles of natural justice.

27) I am in agreement with the findings recorded by the learned Judge for upholding the admissibility of security reports in evidence. It must be borne in mind that when the RBI assessed the security threat on the basis of confidential reports received from the Intelligence Bureau and the Additional Commissioner of Police, it was not expected to examine authors of those reports. The security reports were outcome of

observations by a team of officials, who visited the premises from security perception. Even if the officers who have signed the reports were to be examined, Petitioners would have insisted on examination of all the officers who visited the premises and made their observations. This is not a criminal trial to apply strict rules of evidence. Petitioner is an occupant of public premises, who does not enjoy protection of rent control legislation. They cannot enjoy possession of public premises for eternity. The Public Promises Act is enacted to ensure swifter recovery of possession of public premises by the public authorities who do not have to file complex legal proceedings for recovery of public property. This aspect is dealt with in greater details in the latter part of the judgment. Seen from this perspective, can it be said that the RBI or the Estate Officer are prohibited to rely on confidential information received from the IB and Police only for establishing the security perception in the mind of RBI? The answer, to my mind, appears to be in the negative. When security concerns are highlighted by the security agencies, the public authority is justified in entertaining a threat perception and the affected party cannot question the correctness of the opinion of security agencies in quasi-judicial proceedings by seeking to cross examine the officers of security agencies. It must also be borne in mind that what is sought to be established by production of security reports is the factum of receipt of those reports and perception of RBI about the threats. In such circumstances, the entity in possession of public premises cannot seek to question findings and recommendations made by security agencies and seek to establish that there is actually no security threat. The whole objective behind cross examining the officials of IB and Police

is to establish that presence of Petitioners in the building does not pose any security threat. That exercise would be impermissible. Petitioners could only cross examine RBI's official to establish that the security reports do not make out any security threat due to presence of Petitioners in the building. Recommendations made by the security agencies is one concept and perception of threat due to presence of an occupier in the public premises by the public authority is a different concept. There can be no cross examination on the former aspect while the cross examination can be conducted on the latter aspect.

28) Reliance by Mr. Colabawala on judgment of the Apex Court in ***Sait Tarajee Khimchand*** (supra) is inapposite. The judgment is an authority on the principle that mere marking of a document as exhibit does not dispense with the requirement to prove the document. This principle has no application in the facts of the case in view of the discussion above. Evidence about the reports is given by the officer of RBI, who has received those reports and therefore it cannot be contended that there is absolutely no evidence qua those reports.

29) Reliance by the Petitioner on the judgment of the Apex Court in ***M/s. Bareilly Electricity Supply Co. Ltd.*** does not assist its case. The judgment is an authority for the principle that, although the Evidence Act does not apply to the Industrial Tribunal, it must follow natural justice, and cannot reply upon unproven documents or copies without proper formal proof or testimony. In that case, the Apex Court has held that that mere production of a balance sheet and profit-and-

loss account by the management is not enough when the entries and financial claims were seriously contested by the workmen. In the present case, the principles of natural justice were duly adhered to. The RBI placed the security reports on record, and copies thereof were supplied to the Petitioners even though the same concerned security and were confidential documents. The security reports contained recommendations made by security agencies, which were made available to the Petitioners. Petitioners have conducted in-depth cross examination of the witness on the security reports. Independent of the security reports, the RBI's witnesses also led evidence. In my view, therefore, it cannot be contended that the Estate Officer's reliance on security reports violates the principles of natural justice or that there is no evidence in support thereof.

30) In a quasi-judicial inquiry, where strict rules of evidence do not apply, it is permissible for officer of the organisation, which has received a report, to give evidence in relation to that report. There is no absolute allegory to even hearsay evidence in quasi-judicial proceedings. Hearsay evidence is admissible in domestic inquiries and quasi-judicial proceedings provided it is logically probative, credible, and possesses a reasonable nexus to the issue at hand. [SEE: ***State of Haryana and Anr. Versus. Rattan Singh***[10]]. Here the evidence is not hearsay in strict sense. The security officer of the organisation, which has received the security reports from security agencies has led evidence about the same. Ultimately, the evidence is intended to establish the threat perception

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and the necessity for evicting the occupants on security grounds. In such circumstances, the evidence of an RBI witness may be sufficient to prove the security report, even in the absence of examination of its authors.

31) Reliance by the Petitioner on the judgment of the Division Bench of this Court in ***Nandini J. Shah*** is also inapposite as this Court has dealt with a case involving breach of condition of lease by subletting the premises without authority/consent and change of user. The Division Bench held that the onus lied on the LIC to establish subletting and change of user. The Division Bench highlighted the need for Estate Officer to hold summary proceedings in a manner which is in consonance with the basic rule of law. In that case, a presumption was raised by the Estate Officer about unauthorised occupancy in absence of any concrete proof of unauthorized subtenancy and change of user. This Court therefore remanded the proceedings for fresh adjudication before the Estate Officer. The ratio of the judgment has no application to the facts of the present case where eviction is directed primarily on the ground of security requirements of RBI. The security requirement is fully established by production of cogent evidence. The findings recorded by the Estate Officer in the present case are not presumptive, but there is direct evidence on record to support the same. The findings cannot be said to be perverse by any stretch of imagination.

32) Petitioners' reliance on judgment of this Court in ***Tirandaz Subha Niketan CHSL*** (supra) is inapposite. In that case, this Court has dealt with the issue of legality of a stop-work notice issued near a

defence establishment and has ruled that the Central Government's executive guidelines or circulars requiring a mandatory No Objection Certificate from naval/defence authorities cannot have retrospective effect or can override the lawfully granted municipal permissions, where no statutory backing under the Works of Defence Act, 1903 was validly notified for the land. Relying on the judgment of Division Bench in ***Tirandaz Subha Niketan CHSL***, Mr. Colabawala has contended that security perspective put forth by defence establishments cannot fall outside the scope of judicial review. The Division Bench has upheld the cardinal principle that the security of nation must be accorded supremacy over individual commercial interests. The observations made in Para 21 of the judgment about scope of judicial review are in the context of naval establishment being a mere residential colony and presence of higher buildings in the vicinity. This Court went through the communication of Senior Police Inspector about security issues and held that the letter did not cite any security threat for construction of a building of a particular height. In the present case however, there are specific recommendations for removal of non-RBI establishments from Amar Building by the security agencies. The judgment of this Court in ***Tirandaz Subha Niketan CHSL***, rendered in the facts of that case, therefore cannot be cited in support of an abstract proposition that in every case, the scope of judicial review would extend over security matters.

33) I am also not able to accept the allegation of arbitrariness sought to be leveled by the Petitioners. The RBI has not acted on mere

whims and caprices in the present case and initiated the eviction proceedings based on concrete material. The eviction action is also not motivated by commercial considerations.

34) Mr. Colabawala has submitted that the definition of the term 'unauthorised occupation' under Section 2(g) of the Public Premises Act talks of determination of tenancy 'for any reason whatsoever' and that therefore there has to be a cogent reason for determination of the authority to occupy the premises. Section 2(g) of the Act defines the term 'unauthorised occupation' thus:

> "unauthorised occupation", in relation to any public premises, means the occupation by 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 has expired or **has been determined for any reason whatsoever.**
>
> *(emphasis and underlining added)*

35) Thus, occupation of the premises becomes unauthorised either when a person occupies the premises without any authority or when the authority, under which the person was permitted to occupy the premises, expires or is determined. The expression "for any reason whatsoever" used in Section 2(g) of the Public Premises Act in relation to the determination of authority essentially refers to a case where the authority to occupy the premises is determined during the subsistence of such authority. For example, if the premises are leased for a tenure of 30 years and the lease is terminated in the 28th year, the reason for such determination of authority must be justified. To illustrate, if it is alleged

that the lessee has unauthorisedly sublet the premises or changed the user of the premises, and the authority to occupy the premises is determined during subsistence of such authority, the specific ground of unauthorised subletting or change of user must be stated in the notice and must also be duly proved in the eviction proceedings. Another example can be where an employee is permitted to occupy service quarters and the condition of service permits him to occupy the same while being in service. Suppose he breaches the condition of authority to occupy by subletting the quarters, the authority can be determined by assigning that reason. However when he/she reties from service, the authority to occupy the public premises expires and no reasons are required to be recorded or established for his/her eviction.

36) There is no necessity to record or establish a reason for determination of authority where there is no specific tenure of lease and the occupant occupies the public premises under a misnomer that his tenancy is protected by Rent Act. Once it is clear that there is no protection of Rent Act to the premises or to the tenancy, the same becomes simple monthly tenancy, terminable under Section 106 of the Transfer of Property Act, without assigning any reason.

37) In the present case, Petitioners have continued to occupy the premises on a misconception that they are statutory tenants and are entitled to protection of Rent Control legislation. They otherwise did not have any authority to occupy the premises. Once it got clarified that they are not entitled to protection of their tenancy under the rent control

legislation, their occupancy becomes that of a simple monthly tenancy, terminable by giving notice under Section 106 of the Transfer of Property Act. In such situation, neither any reason is required to be specified for termination of tenancy nor such reason needs to be established before the Estate Officer.

38) Therefore, it was not really necessary for the RBI to prove any grounds such as security threat or bonafide requirement for seeking eviction of the Petitioners. The expression 'for any reason whatsoever' appearing in Section 2(g) of the Public Premises Act has to be understood in the context of the reason for determination of the authority. In cases involving leases in absence of tenure under Section 106 the Transfer of Property Act, no reasons are required to be cited for termination of tenancy and the only requirement is service of notice of 6 months where the tenancy is annual (*agricultural or manufacturing purposes*) or 15 days where the tenancy is monthly (*for all other purposes*). Therefore, when tenancy is a simple monthly tenancy determinable under Section 106 of the Transfer of Property Act, use of the expression 'for any reason whatsoever' cannot be interpreted to mean that even for terminating a monthly tenancy under Section 106 of the Transfer of Property Act, reasons are required to be recorded or that such reasons are required to be established before the Estate Officer. This is settled position by the judgment of the Apex court in ***Jiwan Dass*** (supra), ratio of which is discussed in the latter part of the judgment.

39) Once rent control protection to the premises is withdrawn, the occupation gets converted into a normal monthly tenancy

terminable by a notice under Section 106 of the Transfer of Property Act without assigning reasons. Illustration in this regard can be considered under Section 3(1)(b) of the Maharashtra Rent Control Act, 1999 **(MRC Act).** After advent of the MRC Act, certain entities enumerated in Section 3(1)(b) thereof, are excluded from the application of the MRC Act. One of the excluded entities is where the share capital of the tenant company exceeds Rs.1 crore. Thus, a corporate entity whose share capital exceeds Rs.1 crore loses protection from eviction and rent escalation under the MRC Act. Similar is the case with regard to Banks, PSUs, etc. Since provisions of MRC Act are inapplicable to the premises occupied by such excluded entities, their tenancy can be terminated by issuance of notice under Section 106 of the Transfer of Property Act. No reasons are required to be cited or established for termination of tenancy of such excluded entities. The landlord in such cases can filed ejectment action under Section 41 of the Presidency Small Cause Courts Act 1882. On similar lines, once the judgment of the Apex Court in ***Life Insurance Corporation of India V/s. Vita*** has clarified that protection of rent control legislation is no longer available to premises governed by the provisions of the Public Premises Act, the authority to occupy public premises can be withdrawn by issuance of notice without citing any reason.

40) If Mr. Colabawala's contention that valid reasons must be cited and established for the determination of the authority to occupy public premises is accepted, it would place public premises on a higher pedestal than the private premises occupied by an excluded entities

under Section 3(1)(b) of the MRC Act. Thus, in the case of a private landlord, a tenancy in respect of premises which earlier enjoyed rent control protection under the Bombay Rent Act, but which is now excluded under Section 3 (1)(b) of MRC Act, can be terminated without citing any reason. However, Petitioner contends that the public authority would be required to justify the reasons for withdrawing the authority to occupy public premises that no longer enjoy the protection of rent control legislation. Such a position is wholly incongruous, absurd and is incapable of being countenanced. This principle is also accepted by the Apex Court in ***Jiwan Dass*** (supra) which is discussed in latter part of the judgment.

41) In my view therefore when premises are occupied on the assumption of protection of rent control legislation, on account of declaration of law by the Apex Court in ***Life Insurance Corporation of India V/s. Vita*** about non-applicability of rent laws, the authority to occupy the public premises can be withdrawn without citing any reason and it is not necessary for the public authority to establish any valid reason for withdrawal of such authority. An entity occupying public premises in respect of which rent control protection is inapplicable and in respect of which authority to occupy has expired or has been determined, cannot remain in occupation of public premises and must vacate the same. While a private landlord may have to file a suit for eviction under Section 41 of the Presidency Small Causes Courts Act,1882 for eviction of excluded entities under Section 3(1)(b) of the MRC Act, for government authority swifter mechanism in the form of

Public Premises Act is created for ensuring faster eviction from public premises.

42) Reliance by Petitioners on judgment of the Apex Court in ***Jiwan Dass*** (supra), far from assisting their case, actually militates against them. The Apex Court has held in the judgment that public statutory corporations under the Act can terminate tenancies and seek eviction under the Public Premises Act without any need to justify the action or disclose specific reasons. The Apex Court has held thus:

> 4. Section 106 of the T.P. Act does indicate that the landlord is entitled to terminate the tenancy by giving 15 days' notice, if it is a premises occupied on monthly tenancy and by giving 6 months' notice if the premises are occupied for agricultural or manufacturing purposes, and on expiry thereof proceedings could be initiated. **Section 106 of the T.P. Act does not contemplate of giving any reason for terminating the tenancy. Equally the definition of the public premises 'unauthorised occupation' under Section 2(g) of the Act postulates that the tenancy "has been determined for any reason whatsoever". When the statute has advisedly given wide powers to the public authorities under the Act to determine the tenancy, it is not permissible to cut down the width of the powers by reading into it the reasonable and justifiable grounds for initiating action for terminating the tenancy under Section 106 of the T.P. Act. If it is so read Section 106 of T.P. Act and Section 2(g) of the Act would become ultra vires.** The statute advisedly empowered the authority to act in the public interest and determine the tenancy or leave or licence before taking action under Section 5 of the Act. **<u>If the contention of the appellant is given acceptance he would be put on a higher pedestal than a statutory tenant under the Rent Act.</u>** Take for example that a premises is let out at a low rent years back like the present one. The rent is unrealistic. With a view to revise adequate market rent, tenant became liable to ejectment.
>
> *(emphasis and underlining added)*

43) The principle of absence of necessity to cite and establish reasons/grounds for eviction from public premises, not enjoying rent control protection, is discussed by this Court in ***<u>Bank of Maharashtra</u>***

Versus. Mrs. Gunwanti Kashinath Zarkar in which it is held in paragraph 23 as under:

> 23. As a matter of fact, the inquiry into existence of any bonafide requirement is not even required in the facts and circumstances of the present case. The PP Act does not envisage any protection to the occupants of public premises unlike the provisions of Section 13 of the Bombay Rent Act or Section 16 of the MRC Act. **It is not necessary for the owner of the premises to establish any ground for seeking eviction of the occupant from the public premises. Occupation of public premises can only be under express authority and only for so long as such authority continues to subsist. The moment the authority comes to an end, the occupation is automatically rendered unauthorised. In that sense, it was not even required for the Petitioner to establish any bonafide requirement.** The authority to occupy the premises is terminated by issuance of notices by the Bank. **The moment the authority is terminated, the occupation becomes unauthorised.** In my view, therefore an inquiry into the aspect of bonafide requirement was quite unnecessary and it is not necessary to delve any further into that aspect.
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> *(emphasis added)*

44) In my view therefore, it was not necessary for the Respondents to establish any specific ground for seeking eviction of premises in occupation of the Petitioners. Nonetheless, the ground of security threat is properly established in the facts of the present case.

45) Mr. Colabawala had relied on the Guidelines published by the Government of India on 30 May 2002 in support of his contention that eviction action cannot be initiated with the commercial motive or for securing vacant possession of the premises in order to accommodate its own staff. According to him, the guidelines provide that occupation of the premises could not be treated as unauthorised merely upon service of a notice of termination; rather, the question of unauthorised occupation needs to be determined by following due process of law. In

my view the guidelines, apart from not having any statutory force, otherwise does not assist the case of the Petitioners. Here, RBI is not seeking eviction of Petitioners for commercial motives. There is nothing on record to show that RBI would rent out the premises or would offer the same to its employees for residence after recovering possession thereof from Petitioner.

46) Reliance by Mr. Colabawala on judgment of the Apex Court in ***Banatwala & Company*** (supra) is inapposite. That judgment is an authority on the principle that state rent control laws continue to apply to public premises for matters not covered by the Public Premises Act, specifically regarding the fixation of standard rent and the maintenance of essential services. Here the issue of determination of standard rent or provision of essential services is not involved. Also, in view of the law subsequently declared by the Apex Court in ***Life Insurance Corporation of India V/s. Vita*** it would be too adventurous on the part of the Petitioners to suggest that they can still enjoy the protection of MRC Act qua eviction aspect. Mr. Colabawala has fairly not travelled to that extreme proposition. Therefore the judgment in ***Banatwala & Company*** cannot be relied on to suggest that the grounds akin to Section 16 of the MRC Act must be established even for eviction under the provisions of the Public Premises Act.

47) Considering the overall conspectus of the case, I am of the view that no palpable error can be traced in the judgments and orders passed by the Principal Judge of the City Civil Court. Even otherwise

exercise of extraordinary jurisdiction under Article 227 by this Court for protecting possession of premises by the Petitioners is not at all warranted. This Court cannot sit as an Appellate Court over the findings recorded by the Estate Officer and by the Principal Judge by re-appreciating the evidence. I find no perversity in the findings recorded by the Estate Officer and by the Principal Judge. Though not required, RBI has established its requirement of the public premises for security purposes. Petitioner has not been able to make out a case that the threat perception and security concerns perceived by RBI, based on material on record, is totally unfounded. Thus, no case is made out for interference in the impugned orders.

48) Petitioners have been occupying the premises for the last 13 long years after passing of the impugned eviction order on 15 April 2013. Pendency of litigation has enabled them to remain in occupation of the premises for a considerable period of time. As a matter of fact, Petitioners had undertaken to scout for alternate premises on 12 January 1961. However, for the last 65 long years, they are still occupying the public premises. Time has come for them to vacate the possession of public premises.

49) The Writ Petitions are accordingly **dismissed**. However, considering the facts and circumstances of the present case, there shall be no order as to costs.

[SANDEEP V. MARNE, J.]

50) After the judgment is pronounced, Mr. Colabbawala, the learned counsel appearing for the Petitioner prays for continuation of interim order for a period of four weeks. Request is opposed by Mr. Tulzapurkar, the learned Senior Advocate appearing for the Respondennt-RBI. Considering the fact that interim protection is running in favour of the Petitioners since 6 March 2014, the same shall continue to operate for a period of four weeks.

[SANDEEP V. MARNE, J.]

NEETA SHAILESH SAWANT

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