

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION STAMP NO. 12671 OF 2022

IN

WRIT PETITION STAMP NO. 3715 OF 2020

Becharabhai B. Chauhan ... Applicant

Vs.

Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**

INTERIM APPLICATION STAMP NO. 7491 OF 2021

IN

WRIT PETITION STAMP NO. 3726 OF 2020

Kantaben Pravin Wala and Others ... Applicants

Vs.

Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**

INTERIM APPLICATION STAMP NO. 12672 OF 2022

IN

WRIT PETITION NO. 2236 OF 2020

Jitendra B. Chauhan ... Applicant

Vs.

Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**

INTERIM APPLICATION STAMP NO. 12673 OF 2022

IN

WRIT PETITION NO. 2233 OF 2020

Kamlesh Dilip Chauhan ... Applicant

Vs.

Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**

INTERIM APPLICATION STAMP NO. 12676 OF 2022

IN

WRIT PETITION STAMP NO. 3726 OF 2020

Dilipbhai Chauhan Vs. ... Applicant

Vs.

Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**

INTERIM APPLICATION STAMP NO. 12681 OF 2022

IN  
WRIT PETITION NO. 2240 OF 2020  
Sanjay B. Chauhan ... Applicant  
Vs.  
Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**  
INTERIM APPLICATION STAMP NO. 12682 OF 2022  
IN  
WRIT PETITION NO. 2239 OF 2020  
Mahendra B. Chauhan ... Applicant  
Vs.  
Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**  
INTERIM APPLICATION STAMP NO. 12684 OF 2022  
IN  
WRIT PETITION NO. 2238 OF 2020  
Mansukhbhai Chauhan ... Applicant  
Vs.  
Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**  
INTERIM APPLICATION STAMP NO. 12686 OF 2022  
IN  
WRIT PETITION NO. 2235 OF 2020  
Raksha Hasmukh Mevada ... Applicant  
Vs.  
Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

**WITH**  
INTERIM APPLICATION STAMP NO. 12687 OF 2022  
IN  
WRIT PETITION NO. 2234 OF 2020  
Dilipbhai Chauhan ... Applicant  
Vs.  
Mumbai International Airport Pvt. Ltd. and Anr. ... Respondents

.....  
Mr. Jacob Kadantot, a/w Mr. Manmohan A. Amonkar, advocates for applicants  
Mr. Pravin Samdani, Senior Advocate a/w Ms. Shama Maitra i/by Wadia Ghandy and Co. for respondent No.1  
Mr. Arsh Misra i/b. M.V. Kini and Co. for respondent no.2

.....

**CORAM : SANDEEP K. SHINDE, J.**  
**RESERVED ON : 24<sup>th</sup> MAY, 2022.**  
**PRONOUNCED ON: 06<sup>th</sup> JUNE, 2022.**

**P.C. :**

1. All interim applications, in the writ petitions are taken up for the hearing together, since facts therein are substantially common.
2. Heard learned counsel for the parties.
3. These petitions, under Article 227 of the Constitution of India, question the legality and correctness of eviction orders, passed under Section 28-D of the Airports Authority of India Act, 1994 ('Act of 1994' for short) by the Eviction Officer, appointed under Section 28-B of the Act of 1994. Although these petitions were filed in February, 2020, apparently, no efforts were taken by the petitioners seeking stay of, execution of the impugned orders, except on one occasion and that too, in March, 2022. Be that as it may, order dated 9<sup>th</sup> March, 2022, passed in these petitions, does not imply that petitioners, sought stay of the execution of eviction orders. As such petitions are pending, since February, 2020 without relief. Whereafter in May, 2022, petitioners moved subject applications, seeking stay of, execution of eviction orders, reason, being, Ville-Parle Police Station, *vide* communication dated 8<sup>th</sup> May, 2022, sounded petitioners, that

respondents would seek police-assistance, to evict them, pursuant to eviction orders.

4. Briefly stated facts of the case are that, the Mumbai International Airport Pvt. Ltd.-respondent No.2, moved eviction applications u/s. 28-D of the Act of 1994, seeking eviction of the petitioners from the, `Airport premises`, as more particularly described in the applications. The structures, occupied by the petitioners are admittedly situated on the `Airport premises`, being premises defined u/s. 28-A (a) of the Act of 1994. Applicants-respondent no.2, thus pleaded, that the petitioners, being, “unauthorised occupants”, of C.T.S. No.145-A (Airport Premises), a part of larger land bearing old Survey No.121, be evicted, for want of authority. Eviction application were resisted by the petitioners, contending that they were occupying their respective structures, on, ‘Airport premises’, since last 40 years, as tenants of Mr.Ambroce Creado. In support of this contention, petitioners had relied on Revenue 7/12 extract of Survey No.121, Ration Cards, Property Tax Bills, Electricity Bills, Aadhar Cards. In cross-examination, although petitioners would admit that, they were occupying land C.T.S. No.145-A (Airport Premises) but could not establish their rights over it. Nor could petitioners establish that the

land underneath the structures was owned by Mr.Ambroce Creado (their landlord). On the other hand, the evidence on record reveals, that `airport premises' a part of larger land was acquired by the Airports Authority of India, in terms of an Award dated 14<sup>th</sup> August, 1947 in Case No.LAQ/51/S/121 passed under the Land Acquisition Act, 1894.

5. The Eviction Officer, upon appreciating the evidence led by the respondent no.1 and the petitioners held that petitioners were occupying part of `Airport premises' without authority and thus, in exercise of the powers under Section 28-D of the Act of 1994 directed the petitioners to vacate the Airport premises, more particularly set out in schedule to order, within 15 days from date of publication of the order i.e. on or before 28<sup>th</sup> February, 2020.

6. Indisputably, the lands C.T.S. No.145-A bearing old Survey No.121, was acquired by the State in 1947, for the purposes connected with the defence British India, predecessor of Airports Authority of India. Award placed on record fortifies this fact. In view of acquisition, followed by possession of larger plot/C.T.S. No.145-A, it absolutely vested in the State. In the case of **Indore Development**

**Authority vs. Manoharlal and others, reported in (2020) 8 SCC**

**129**, Apex Court has observed, as under:

“it is apparent that vesting is with possession and the statute has provided under Sections 16 and 17 of the Act of 1894 that once possession is taken, absolute vesting occurred. It is an indefeasible right and vesting is with possession thereafter. The vesting specified under section 16, takes place after various steps, such as, notification under section 4, declaration under section 6, notice under section 9, award under section 11 and then possession. The statutory provision of vesting of property absolutely free from all encumbrances has to be accorded full effect. Not only the possession vests in the State but all other encumbrances are also removed forthwith. The title of the landholder ceases and the state becomes the absolute owner and in possession of the property. Thereafter there is no control of the landowner over the property. He cannot have any animus to take the property and to control it. Even if he has retained the possession or otherwise trespassed upon it after possession has been taken by the State, he is a trespasser and such possession of trespasser ensures for his benefit and on behalf of the owner. After the land has vested in the State, the total control is of the State. Only the State has a right to deal with the same.”

In view of aforestated observations, petitioners could not have claimed tenancy through their landlord to justify their possession. Even otherwise, the Suit No. 5204 of 1996 instituted by Mr. Ambroce Creado, against 'Airport Authority' was withdrawn by him on 29<sup>th</sup> March, 2013. Having considered the evidence, the eviction orders, passed against the petitioners being unauthorised occupants of 'Airport Premises" calls for no interference, in supervisory jurisdiction of this Court under Article 227 of the Constitution of India. Moreover, petitioners could not point out that impugned orders were illegal either for want of jurisdiction or had been passed in excess of jurisdiction. As a result, interim applications are rejected and disposed off.

**(SANDEEP K. SHINDE, J.)**

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