

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LODGING) NO. 13275 OF 2025**

Kashibai Pawar ... Petitioner

vs.

The Union of India,
Through the Divisional Engineer and others ... Respondents

Mr. Samir Vaidya a/w. Ms. Falguni Brahmbhatt, Mr. Aditya Parmar,
Mr. Zainab Khan and Mr. Kadir Lokhandwala for petitioner.

Mr. R. P. Ojha and Mr. Anikit Ojha for respondent Nos.1 to 3.

Ms. Dhvani Mehta a/w. Mr. Abdul Basit Kudalkar, i/b. Ms. Neha Bhosale
for respondent No.4-SRA.

Mr. Rakesh Pathak, AGP for respondent No.5-State.

CORAM : MANISH PITALE, J.

DATE : 09th MAY, 2025

P.C. :

. Heard learned counsel for the petitioner and the learned counsel appearing for the respondents.

2. This petition was mentioned for circulation before this Court, as the regular Court is not available. Considering the urgency in the matter, wherein the petitioner is facing demolition of tenement occupied by her, this Court granted urgent circulation to consider urgent ad-interim reliefs being pressed on behalf of the petitioner.

3. It is the case of the petitioner that in the present case, a mandatory requirement indicated in the order dated 16.12.2021 passed by the Supreme Court in Special Leave Petition (Civil) Diary No.19714 of 2021 (*Utran Se Besthan Railway Jhopadpatti Vikas Mandal vs. Government of India and others*) has not been followed,

inasmuch as the concerned Collector has not carried out necessary survey, before commencing the process of eviction and removal of structures. It is submitted that although the petitioner cannot come in the way of the development project, for the reason that in the present case, railways-respondent Nos.1 to 3 require the subject land, but at the same time, in the absence of mandatory procedure being followed, the tenement of petitioner cannot be demolished.

4. It is the case of the petitioner that recently, by notice dated 30.03.2025, the demolition of petitioner's tenement is threatened and in that light, an appeal was preferred before the Principal Judge, Greater Mumbai, wherein by order dated 25.04.2025, ad-interim relief has been rejected and therefore, there is imminent threat of demolition of tenement.

5. It is further submitted that a reasoned order rejecting ad-interim relief, is still not available/uploaded and this has further deprived the petitioner from raising further grounds in the petition.

6. Although the learned counsel for respondents have opposed the grant of any ad-interim relief in the present petition, this Court finds that the order dated 25.04.2025 passed by the Principal Judge, Greater Mumbai is a cryptic order, rejecting ad-interim relief, during the pendency of appeal of the petitioner. It has used the expression "F.R.S.R. following order is passed".

7. It was only with the assistance of the learned counsel for the petitioner that this Court could decipher that "F.R.S.R." means for the reasons to be separately recorded.

8. This Court is surprised that having rejected the ad-interim relief on 25.04.2025, for the reasons to be separately recorded, the reasoned order is not available. This obviously deprives the petitioner from raising appropriate grounds in the petition, to challenge the order rejecting the ad-interim relief.

9. Apart from this, a specific assertion is made on behalf of petitioner that the Collector/concerned authority has failed to carry out the survey, as contemplated in the order of the Supreme Court passed in **Utran Se Besthan Railway Jhopadpatti Vikas Mandal vs. Government of India and others** (*supra*). An order passed by this Court (Coram: R. I. Chagla, J) on 05.02.2025 in Writ Petition (Lodging) No. 2340 of 2025 (*Darshana Kolte and 16 others vs. Estate Officer, Divisional Engineer (Estate/North) Western Railway, Mumbai and others*), further shows that this Court has granted interim protection, in such circumstances.

10. In view of the above, till the next date of listing, *status quo* shall be maintained only in respect of tenement occupied by the petitioner.

11. The Principal Judge, Greater Mumbai is directed to make available the reasoned order at the earliest and in any case, within one week from today.

12. List for further consideration on 10.06.2025, High on Board.

13. It is made clear that the ad-interim protection granted hereinabove shall last only till the next date.

14. In the meanwhile, the respondents are at liberty to file their reply affidavits.

15. Liberty to the petitioner to carry out appropriate amendment, to add the concerned Collector/concerned authority as party respondent in the present petition. Amendment be carried out within two weeks from today.

(MANISH PITALE, J)

Priya Kambli